

Working Restoratively:
A Study of Youth Justice Professionals in Tasmania

by

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This thesis is original research that I have solely produced under guidance of my supervisory team. To the best of my knowledge, the thesis has not plagiarised or replicated any published work, except for material that has been referenced for background purposes. All referenced material has been clearly cited in accordance with academic referencing guidelines of the social sciences. The thesis contains no material that violates copyright laws.

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Statement of Ethical Conduct

This study has been approved and has followed the standards set in collaboration with the Tasmanian Social Sciences Human Research Ethics Committee (ethics reference number: H14079).

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Abstract

The Youth Justice Act 1997 in Tasmania introduced the principles and practice of Restorative Justice with the aim of reducing youth crime. Since this time, Restorative Justice has influenced early intervention, resulting in a decrease in youth crime and detention rates. But, as recognised internationally and by previous research in Tasmania, this apparent success may conceal problems or limitations in how conferences are conducted. To explore these issues, this study interviewed 21 practitioners with occupational knowledge of how young offenders are managed through the diversionary system in Southern Tasmania. These interviewees complain that conferences individualise the problem of offending rather than addressing structural causes of crime such as poverty. The thesis provides a detailed account of their work and professional challenges. It also advances arguments for the value of qualitative research on the criminal justice process; and makes policy recommendations to establish multi-disciplinary teams and to increase the diversity of referral options.

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Acronyms and Abbreviations

AOD	Alcohol and Other Drugs
AYDC	Ashley Youth Detention Centre
ADHD	Attention Deficit Hyperactivity Disorder
ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
AIC	Australian Institute of Criminology
AIHW	Australian Institute of Health and Welfare
CFS	Child and Family Services
CFC	Commissioner for Children
CP	The Department of Child Protection
DoE	Department of Education
DHHS	Department of Health and Human Services
DPEM	Department of Police Emergency Management
DPAC	Department of Premier And Cabinet
HREC	Human Research Ethics Committee
IOM	Integrated Offender Management Unit
JLD	JLD Restorative Practices
MHS	Mental Health Service
MDT	Multi Disciplinary Team
MTT	Multi-disciplinary Treatment Team
NSW	New South Wales
NT	Northern Territory
ODD	Oppositional Defiance Disorder

PCYC	Police Youth and Citizens Club
RJ	Restorative Justice
RHH	Royal Hobart Hospital
STC	Save The Children
Tafe	TasTAFE (the State funded trade school)
U.K.	United Kingdom
YJS	Youth Justice Services, Tasmania

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Introduction

Since the introduction of the Youth Justice Act 1997 in Tasmania, youth crime and detention rates have decreased (*The Mercury*: 2015). It is often assumed that this must be a positive development (see Killick: 2015). However, little research has been conducted to understand how the diversionary system is working. The body of academic research into the Tasmanian youth justice system comprises few studies, which include, Prichard (2002, 2004, 2010), Travers (2007, 2010a, 2012) and Travers, White and McKinnon (2011). The Tasmanian Government has also published a number of reports since 2000. These reports evaluated community conferencing (DHHS: 2008), the 2011 Hobart's Children's Court Pilot Program (Magistrate's Court Tasmania: 2013), Ashley Youth Detention Centre (2016a); and Youth Justice Services (DHHS: 2013a, 2016b). The office of the Tasmanian Commissioner for Children (CFC) has also submitted independent reports (see Commissioner for Children Tasmania: 2016a). However, government and independent reports have not investigated how young offenders are managed from the perspective of professionals working in the sector.

Selective studies have previously revealed the practices and culture of various agencies and departments who work with offenders (Richards: 2011a; Thomas: 2012; Graham: 2014). For example, Thomas (2012) researched how youth workers facilitate desistance amongst at-risk youth. Findings showed that youth workers in Southern Tasmania utilise a number of strategies that include interpersonal skills to build rapport and knowledge of local youth culture. But,

youth workers at times lack professional standards and were divided in how youth work should be practiced. In one case, participants justified the practice of 'gifting' clients with cigarettes under the guise of 'harm minimisation'.

Similarly, Graham's (2014) PhD thesis researched how practitioners comparatively conducted rehabilitation work at Risdon Prison and in the alcohol and other drug (AOD) sector. Her research determined that rehabilitation work is plagued with high staff turnover, amid staff taking regular sick leave. Her other findings revealed that practitioners conduct rehabilitation work differently to the literature on rehabilitation theory, influenced by workplace culture and individual perspectives.

Building on these studies, this thesis will show how practitioners in Southern Tasmania understand and work within the framework of Restorative Justice. The research draws on qualitative theory, which is now receiving growing interest in criminology for making possible a greater understanding of criminal justice processes (see Travers et al 2010, Miller & Miller 2015). To achieve this outcome, I conducted semi-structured interviews with 21 practitioners across the youth justice sector, all of whom were involved in conferencing as part of their work. Participants came from a wide range of agencies in the youth justice sector in Southern Tasmania. The development of the four research questions was a reflective process that commenced from the initial literature review and continued throughout field research. These questions are as follows:

- How do practitioners view the youth justice system?

- What are the professional pathways, perspectives and practices?
- How is conferencing operating in Southern Tasmania?
- How can youth justice be improved?

To adequately explore these questions, the thesis is structured into eight chapters. Chapter 1 discusses the problem of youth crime and the objectives of Restorative Justice to divert young offenders from the justice system and encourage desistance. The review gives attention to international, national and local trends of youth offending and Restorative Justice. The first half of the chapter will demonstrate how crime statistics are often misleading and do not explain the reasons why youth enter and desist from offending. The second half of the chapter will discuss the core concepts of Restorative Justice and the difficulties in practicing this theoretical tradition due to neo-liberal beliefs that offenders should be responsible for their own rehabilitation and that diversions should operate at a low cost.

Chapter 2 will discuss criminological theories that explain youth crime and desistance. The chapter will detail debates in developmental/life course criminology and critical criminology. These theoretical traditions seek to explain how youth commence, maintain and desist from offending. I will give specific attention to individual risk factors that represent the dominant view of the youth justice system and critique it against structural explanations of crime. This comparison will demonstrate how social inequality is a part of why youth offend and why the justice system is currently not meeting their needs through restorative initiatives. I conclude that systematic change is required in the

criminal justice system to address the complex needs of offenders in order to reduce recidivism.

Chapter 3 will describe how the research was conducted and the interpretive methodology that informed the method of collecting, analysing and presenting data. Interviews were employed to obtain a detailed account of the occupational perspective of this group and insight into their practical work. The data was analysed thematically and presented with the aim of conveying a sense of what it is like working in these agencies, which receives less or no emphasis in quantitative and policy studies. I also obtained documents used in early intervention, case management and conferencing, but these documents were of little importance in analysing how Restorative Justice is delivered in Southern Tasmania.

Chapter 4 describes the three-tiered youth justice system in Tasmania. Practitioners reported both strengths and shortcomings. Strengths of the system are the success in reducing youth crime and detention from the introduction of the Youth Justice Act 1997. Shortcomings are more apparent regarding the lack of referral options available at every tier of youth justice intervention. This has resulted in the over use of conferencing by the police, youth justice and the youth court to divert recidivist offenders. This is one reason why participants identified problems with current government funding, agency resources and referral options. Practitioners believe that there is a lack of services available to realistically meet the needs of disadvantaged youth.

Chapter 5 describes professional pathways, perspectives and practices of the practitioners in relation to conferences (the first account of professional socialisation and practices in these organisations). The chapter starts by discussing the pathways that have led participants to work with offenders and how they understand local offending cultures. The interviewees saw the influence of crime families, alcohol and other drugs (AODs), family abuse, neglect and trauma to be the most common factors why youth in Southern Tasmania offend. These beliefs mirror those in criminological theories, though interviewees were not aware of this fact. Research into case management also revealed a number of skills used by practitioners to build meaningful relationships to assist youth to finish community orders. The chapter concludes through considering how current resourcing of the sector is reflective of neo-liberal assumptions. It is believed policies in youth justice emphasise that youth are more responsible than the government to alleviate the influences of structural inequality.

Chapter 6 presents and considers a case study of how community conferencing is operating in Southern Tasmania. Findings are based on de-identified case studies and the first hand accounts of practitioners. The chapter will describe through the recollections of practitioners how Restorative Justice and conferencing was introduced into Tasmania. It will then critically discuss by drawing on examples, how conference work is conducted from pre-conference work to post-conference support. As a result, interviewees claim conferencing as described in theory is beneficial. However, in practice, conference work is challenging and can be frustrating. This is partly because the youth court at times refers youth back to

conferencing after failing several attempts. Secondly, undertakings do not always reflect the offender's needs, which make the use of undertakings to be a form of social control. Offenders were also noted to be unable to complete their undertakings due to social isolation and poverty, as well as being referred to programs that were not relevant to their needs. The chapter concludes that a lack of post conference support in Southern Tasmania is a major problem that limits the potential benefits of conferencing.

Chapter 7 will make recommendations to improve the youth justice sector based on research findings. Three areas to improve youth justice were identified.

- Improve case management for recidivist offenders
- Introduce additional diversions in youth justice
- Increase community programs and post conference support

My first recommendation is to introduce a multi-disciplinary team (MDT) that supports work before and after conferences. Youth Offender Teams (YOTs) in the U.K. is a good example of how the case management of youth in Southern Tasmania can be improved (see Souhami: 2004). Practitioners also reported that a multi-agency case management model had previously existed in Southern Tasmania and should be re-introduced to address the problems of working with the peak recidivist offenders. The second recommendation is to incorporate the Ropes program (currently used in Victoria) into the Tasmanian youth justice system. This model is believed to be a State-wide alternative for offenders who are not suitable for conferencing. The third recommendation is to develop

additional youth specific programs in the community that are based on the pathways perspective (see France & Homel: 2006). Interviewees identified training and employment to be the most important factors that create pathways out of crime and poverty. The chapter concludes with a list of policy recommendations based on the findings of this study.

Chapter 8 will discuss the benefits of using qualitative methods in researching the criminal justice process. I argue further research in criminal justice should adopt this methodology. Secondly, the chapter will discuss the issues facing young offenders in Southern Tasmania and what this means for youth justice intervention. Thirdly, the chapter will discuss the problems associated in utilising community conferencing for recidivist offenders in its current state. Lastly, the chapter will consider how to support and strengthen existing practices to improve the outcomes of young offenders. I conclude that young offenders in Tasmania are largely defined by poverty. Neo-liberalism has created and will continue to sustain these trends. Policies underlying youth justice intervention need to acknowledge that social inequality is inherent part of Tasmania and that it influences generational offending. Therefore, for youth justice intervention to be effective, it needs to provide practical support to help the most disadvantaged to overcome the effects of social inequality.

Chapter 1

Youth Offending and Restorative Justice

The number of youth offenders has decreased by 22 per cent since 2008-09, however offender rates are still highest for people aged 15 to 19 years at 4,834 offenders per 100,000 (ABS: 2016).

The global problem of youth crime has resulted in governments around the world introducing youth specific justice systems. Since the early 20th century, Australia has managed youth separate from adult offenders (Carrington & Pereira 2009: 6). In Tasmania, youth have been separated from adults as early as the 19th century at Point Puer, Port Arthur (Hooper: 1954). Early developments in youth justice saw a reduction in punishment and an increase in treatment (Richards: 2011b; Ward & Stewart: 2003). Since 2010, less punitive approaches in managing young offenders have extended globally, with youth more likely to be treated in the community opposed to detention facilities (Merlo & Benekos: 2015). At a glance, these trends are promising. But the issue remains; young people are still capable of committing serious offences equal to that of adult offenders.¹ Adding to these concerns, the management of young offenders in the community places a greater risk to the community when the youth justice sector is under resourced. Exploring this concept, the chapter will discuss the rates of youth offending internationally, nationally and in a local context. By doing so, I will demonstrate why the introduction of Restorative Justice does not mean

¹ The term 'serious' will be primarily used to describe acts of psychological, physical, or sexual violence.

better justice when restorative initiatives are unable to address the underlying causes of offending. This is because desistence does not occur in a space of a few hours. Therefore, new diversionary initiatives that have been hailed to reduce crime rates are merely lowering the reporting of crime statistics, instead of creating structural pathways out of crime that lead to qualifications, employment and stable independence. This problem can be conceptualised both internationally and nationally with the on going problem of serious offending by youth.

1.1 International Youth Crime

Statistically, youth offending has decreased in western countries (Clarke: 2015; U.S Department of Justice: 2016; Ministry of Justice: 2016; Allen & Superle: 2016). This may suggest youth offending is becoming less of a problem for governments. But even with decreases, countries are still dealing with the problem of youth who commit serious crimes. The problem raises concerns how governments are managing young offenders whose offending trajectories become more serious with age, which also reflects a problem of failed early intervention (Andrews, Brewin & Rose: 2003). The problem of recidivist offending by youth can be argued to be the cause of governments not adequately resourcing early intervention strategies. One reason for this is due to the existing costs associated with prosecuting and managing young offenders in either detention or the community, which has been estimated in the millions of dollars (Welsh et al: 2008). But realistic intervention to facilitate desistence arguably extends past criminogenic needs. This is because high rates of young people who

have committed serious crimes have been abused, or have experienced some form of trauma in childhood (DeLisi et al: 2014). Therefore, the rates of serious offences by youth also reflect the problem of generational offending and the inability of governments to fulfil the human needs of young people who have had dysfunctional backgrounds (Bijleveld & Wijkman: 2009). This is why the reduction in international youth crime does not dismiss the need to have well resourced youth justice and other welfare systems to treat the underlying causes of crime.

For example, according to Allen and Superle (2016), Canada in 2014 had approximately 101,000 young offenders aged between 12 to 17 years old. This group made up 4,322 youth (rate per 100,000) of the Canadian population. However, in this population, the rates of serious youth crime were comparatively high to other offences, with 51% of all offences relating to acts of violence. In comparison, the U.S had 10 times the rate of youth crime to Canada, with one million youth being arrested in the same year (U.S Department of Justice: 2016). Though high, this figure still reflects a 50% decrease since 2005 (U.S Department of Justice: 2016). But even with this reduction, high rates of serious offences in the U.S were still notable. Crimes included (but not limited to): murder and non-negligent manslaughter (800), rape (3,300), robbery (19,400), aggravated assault (30,100) and weapon offences (20,700) (U.S Department of Justice: 2016). The levels of serious crimes in the U.S by young people are still more serious than Canada, as well as other countries, such as New Zealand.

Currently, New Zealand has one of the lowest youth crime rates in western countries (Ministry of Justice: 2016). Youth crime in New Zealand has decreased to its lowest point in 20 years (Ministry of Justice: 2016). According to the New Zealand Government, the decline in youth crime is due to the introduction of family group conferencing, which is based on restorative theory (NZ.Stat: 2015). Still, males (79%) and 16 year olds of both genders (45%) are still over represented in the youth justice system in New Zealand (NZ.Stat: 2015). As well, teenage males make up the highest proportion of serious offenders in New Zealand. To further explore this fact. In 2015, the number of serious offences by young males included (but not limited to): homicide related offences (3), acts intended to cause injury (258), sexual assault and related offences (60), abduction, harassment and other offences against a person (42); robbery, extortion and other related offences (174) (Ministry of Justice: 2016). So, the use of how diversionary systems work with recidivist offenders raises questions for governments, as serious offending is more likely to occur over time, rather than a once off incident (Nagin, Farrington & Moffitt: 1995; Brame, Mazerolle & Piquero: 2010).

In response to these findings, youth crime statistics demonstrate that even a stronger focus on diversion in youth justice systems, early intervention still needs to be resourced at the level to rehabilitate recidivist offenders prior to them escalating to more serious offending. One reason why governments have not spent more resources into improving diversionary systems is because of the dominance on statistics in criminal justice research (Tewksbury: 2009). Though it will be discussed further in Chapter 3, the reliance on statistical accounts in

youth justice is problematic, as statistics inhibit the accurate analysis of what social factors are fostering criminal behaviours (Hogg & Carrington 2006: 54). As well, statistical findings misrepresent national crime statistics when countries have multiple youth justice systems. In these cases, crime statistics are harder to interpret due to the multiple definitions and systems that construct criminality (Sumner 2004: 3).

For example, Australia like other western countries (excluding the U.K.) has no single youth justice system (AIHW 2015a; 2015b). Instead, each State and Territory has its own legislation that provides a framework for how young offenders are managed. In these cases, national reports do little to uncover the realities of criminal cultures (Coventry & Palmer: 2008). This is because political interests influence youth justice policies and crime statistics to benefit their own interests in times of elections (Chambliss 2004: 252). Arguably, this is one reason why youth justice reform has occurred across Australia, which has seen the rise in diversionary systems for low-level offenders. The following section will discuss critical interpretations of youth offending in Australia. This will assist readers to conceptualise the complex nature of youth crime and the challenges of interpreting national statistics.

1.2 Youth Crime in Australia

Australia manages young offenders (separate to adults) who are between the ages of 10 to 17 years old (AIHW 2015a: 16). The exception to this trend only occurs in the State of Queensland, which manages 17 year olds in the adult

justice system (Queensland Government: 2016; see Shannon: 2015). In 2013-14, a national total of 12,265 young people were supervised across State and Territory youth justice systems, which equated to an average of 6100 youth per day (AIHW: 2015b: 4). This figure reflects an overall 4% (3,391) decrease from the previous recorded year (ABS: 2015a). This decline replicates global reductions. But unlike Canada, national trends in Australia have lower rates of violent crimes, with the most common national offence being theft (23,134 or 26% of the national total) (ABS: 2015a). This suggests that social inequality and poverty is more significant in Australia compared to Canada, which affects the over representation of particular groups in the justice system.²

As reported in other western countries, (excluding the U.S), young offenders in Australia are less likely to be sent to detention, with 4 in 5 young offenders being managed on community-based orders (ABS: 2015a). But similar to New Zealand, there is an over representation of young males committing serious offences. This is no different in Australia, with 82% of detainees being male and 79% aged between 14 to 17 years old (AIHW 2015b: 1). The overrepresentation of teenage males in detention reflects the further need to understand why diversions are failing this demographic. For example, since 2008, early intervention strategies have done little to minimise national trends of sexual assaults, illicit drug offences and miscellaneous offences, which have since increased (ABS: 2015b). The increase of these offences are more concerning given that young offenders are more likely to be aged between 14 to 17 years old (ABS: 2015b).

² In Australia, Indigenous youth are over represented more than any other group in the youth justice system. For a detailed discussion see Cunneen, White and Richards (2015) and White (2009).

Table 1.1: ABS National Youth Crime Statistics 2008–09 to 2013–14 (ABS: 2015b).

Principle offence	2008–09	2009–10	2010–11	2011–12	2012–13	2013–14
01 Homicide	147	124	94	83	91	70
02 Acts intended to cause injury	17,761	17,952	16,879	14,956	13,589	13,086
03 Sexual assault	1,497	1,517	1,237	1,282	1,369	1,855
04 Dangerous/negligent acts	513	577	536	505	500	497
05 Abduction/harassment	930	786	676	966	778	593
06 Robbery/extortion	1,927	2,143	2,066	1,673	1,540	1,421
07 Unlawful entry with intent	8,627	8,695	7,985	6,619	5,672	5,656
08 Theft	26,931	29,139	28,335	26,000	22,266	23,134
09 Fraud/deception	1,829	1,926	1,503	1,165	1,437	1,551
10 Illicit drug offences	9,258	9,817	9,826	10,003	11,311	12,244
11 Prohibited/regulated weapons	2,356	2,271	2,053	1,883	1,794	1,530
12 Property damage	9,773	9,157	7,972	6,897	6,171	5,361
13 Public order offences	19,384	20,419	18,794	15,775	14,710	14,162
15 Offences against justice	4,142	3,500	3,005	2,523	2,557	2,398
16 Miscellaneous offences	2,881	3,839	4,834	5,510	6,997	3,736
Total	109,847	113,699	107,245	97,364	92,004	88,613

At first glance, Table 1.1 shows how the national rate of youth offending is at the lowest levels since 2008. Out of all principle offences, theft is the most common offence, which reflects the high rates of other property related crimes. High rates of offending also include public order offences; illicit drug offences and acts intended to cause injury. These crimes can be argued to be relatively easy to prosecute, as they are more likely to be witnessed by the public. However, amongst all crimes, the sharpest decrease was public order offences (20,419 to 14,162). This decrease implies a national change in policing, that has reduced

arrests for minor offending. But as shown in Table 1.2, youth offending is still over-represented for 14 to 17 year old males. Teenage males represent 5,057 offenders per 100,000 (ABS: 2015c). The overrepresentation of males in youth justice demonstrates the further development needed in all States and Territories to improve early intervention strategies for this demographic.

Table 1.2: Offending Rates by Age: 2012-13 to 2013-14 (ABS: 2015c).

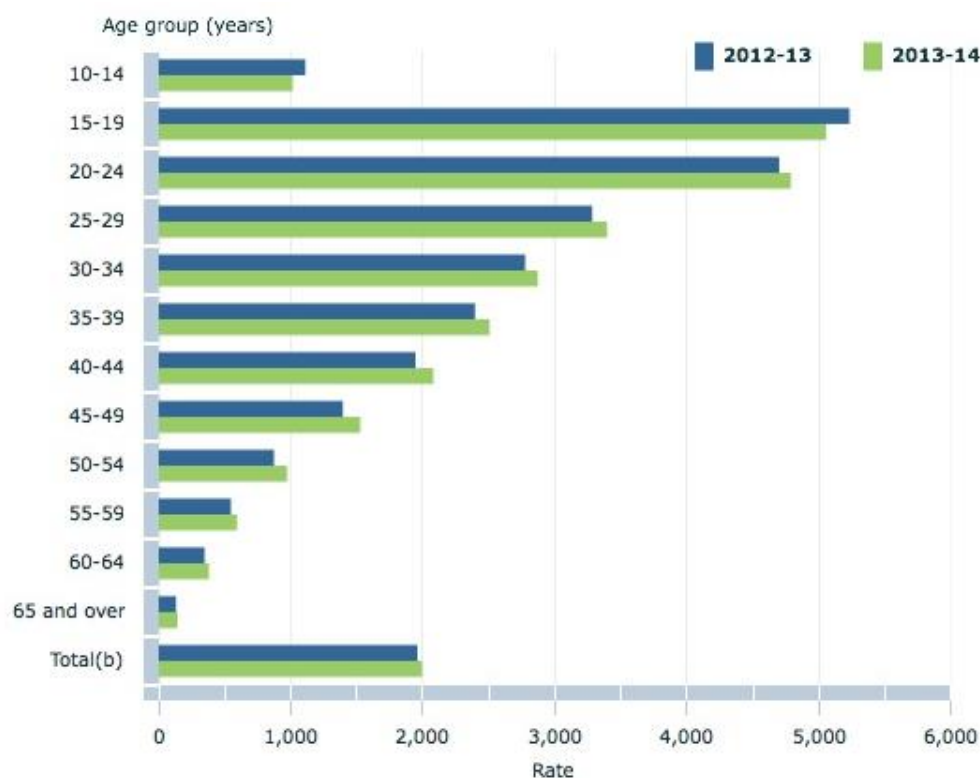
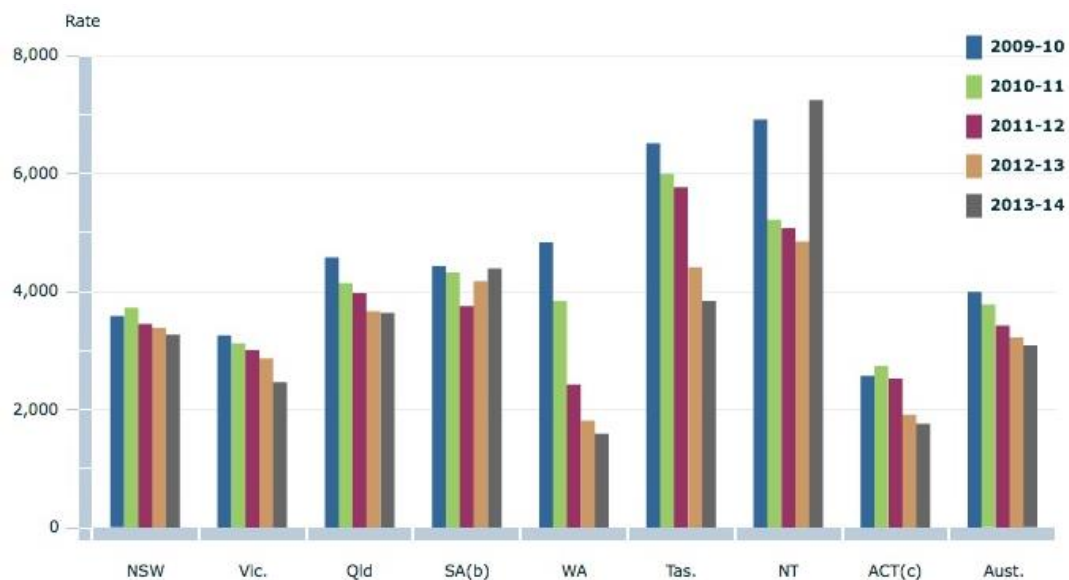


Table 1.2 validates that peak offending occurs in late adolescents. After late adolescence, a steady decrease occurs with age. For example, offenders between 15 to 19 have similar offending rates to adults in their early 50s. But as discussed by Sparkes and Day (2016), age as an indicator of criminality is not a mitigating factor for crime analysis. This is because serious and recidivist offenders often come from the child protection system and disadvantaged backgrounds with

high rates of abuse, neglect and trauma (AIC: 2006a; Cutuli et al: 2016). This is why social factors in early childhood are more significant than age analysis to explain offending. This is also why offence typologies and crime rates change between States and Territories, which to Cunningham et al (2013) is an indicator of how geographical conditions (remoteness) and governance affects the relationship between age and criminality.

Table 1.3: Youth Offender Rates by Australian State and Territories 2009-14

(ABS: 2015d).



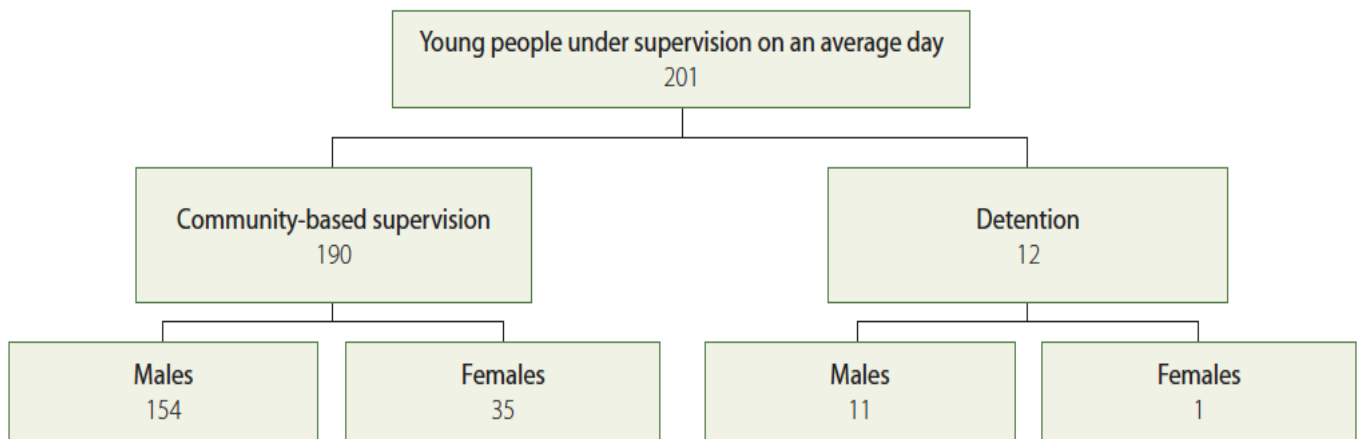
According to Table 1.3, Australia has recently experienced reductions in youth crime. The exceptions to this trend are the Northern Territory (NT) and South Australia (SA). The lowest decrease occurred in the NT, with its crime rate almost doubling other States and Territories. This example supports the claim that geographical factors influence offending. For example, youth aged between 10 and 17 years who live in remote areas are 5 to 7 times more likely to be

involved in the youth justice system (AIHW: 2015d & 2015e). The reason for this is due to the lack of opportunities available in rural areas (see critical theories in chapter 2). This is also why Cunningham (2007: 6) believes that diversions alone are not enough to decrease offending in the NT. Instead, the social needs of youth should be included in any attempts to reduce offending. But is this the reason why offending has decreased in Tasmania? The case between the NT and Tasmania is interesting, as both jurisdictions had similar crime rates in 2009, but now Tasmania is leading the country in reducing crime rates (see Table 1.3).

1.3 Youth Crime in Tasmania

As of 30th June 2011, Tasmania has a population of 511,195 (ABS: 2013). The greater Hobart area (the capital city of Tasmania) has a small population of 214,705 (ABS: 2011) and is defined by high unemployment compared to other Australian capital cities (DPAC: 2016). But Tasmania still has one of the lowest rates of youth crime in Australia (see Table 1.3). In the 2013-14 year, 10,427 offences by young people were recorded in Tasmania (ABS: 2015e). The majority of these offences were diverted without charge and prosecuted offenders were largely sentenced to community orders (see figure 1.1). For example, 201 youth (over 10 years of age) were supervised on youth justice orders on a daily basis in 2013-14 (AIHW: 2015c). From the 201 young offenders, 95% (190) were supervised in the community, reflecting a 10% increase on national trends of community supervision (AIHW: 2015c).

Figure 1.1: Daily Supervision of young offenders in Tasmania 2013-14



(AIHW 2015c: 1).

But how are youth being rehabilitated in the community? According to the Commissioner for Children (2013: 4), the total 2010-11 budget for youth justice service (YJS) was \$14.2 million, with \$10 million being allocated to Ashley Youth Detention Centre (AYDC). The lack of financial commitment to community supervision is concerning, as ten times the number of youth in detention are on community-based orders with a fraction of the resources to rehabilitate them. These financial imbalances between community vs. detention raise questions over the monetary justification of rehabilitation per young offender and who is responsible for a youth's rehabilitation. So how is the Tasmanian Government resourcing services for young offenders and how can this be interpreted?

1.4 Government Intervention in Tasmania

In Tasmania, the youth justice changed from a welfare model to a restorative model in the year 2000 when the Youth Justice Act 1997 was introduced. Prior to this, youth could be detained for long periods of time for minor offences due to the welfare principles of the previous Act (Commissioner for Children Tasmania 2013: 14; Cunneen & White 2007: 107). To Scraton (2007), the use of welfare-based legislation is less about protecting vulnerable youth and more about controlling disadvantaged youth. This is why detention is now thought to not help disadvantaged youth, as detention does not address issues underpinning social inequality and individual disadvantage (Windzio: 2006). Consequently, since early 2000, the rates of youth in detention have decreased from the direct result of the Youth Justice Act 1997 only allowing the detention of youth as a last result.

Even with these developments, youth sent to detention may still be released back to their previous chaotic environment³, or worse, be bailed to temporary accommodation with no pre-arranged stable day program in place (Travers 2012: 169; Commissioner for Children Tasmania 2013: 30). These practices reflect a failure by the government to provide 'throughcare' to at-risk youth leaving detention. Sadly, this problem isn't specific to Tasmania, with similar

³ 'Chaotic environment' is a general term used to describe a lack of stability, which fosters inter-generational offending; defined by poor parenting, alcohol and drug abuse, domestic abuse and entrenched antisocial values that offending is normal.

reports being noted in other western countries (Barnert et al: 2015; Bateman, Hazel & Wright: 2013). So how can these trends be explained?

To Pratt (2008), the justice system is more about social control rather than rehabilitation. This debate is known as neo-liberalism and is broadly defined by the rise of risk management and the erosion of State power (Garland: 2001). Many theorists have discussed neo-liberalism, specifically how it affects the management of offenders in criminal justice. For example, to Kemshall (2008) and Turnbull (2016), the rise of risk paradigms in the criminal justice system has increased the use of formal interventions for minor offences. Neo-liberalism has rendered the use of offender community programs to be obsolete. This is because rehabilitation is considered to be the responsibility of the individual not the State (Bazemore: 2001). Instead, cheaper initiatives are considered to be more desirable for governments. However, this is problematic when considering why youth offend and that young offenders will eventually be released from community orders or detention. Therefore, the need to rehabilitate youth from making poor decisions is of the utmost importance in models based on best practice and not monetary value. The following section will discuss a local case study of a serious youth crime in Southern Tasmania. This example of a real crime by a recidivist young offender will demonstrate how neo-liberal governance can result in recidivism and serious offending.

1.5 The Consequences of Failed Intervention

Young offenders in Southern Tasmania have previously been treated in the community by attending youth specific programs to build practical skills. But last year, recent funding cuts by the Tasmanian Government saw services for at-risk youth closed (*ABC News*: 2015). Two programs were locally known as U-Turn and TOOL. Training Opportunities and Options for Learning (TOOL) was an alternative education program focused on building nationally recognised skills for at-risk youth (Coulter: 2015). U-Turn, was a youth car offender program that engaged young offenders by fixing cars that were later given to victims of crime (Goodwin: 2005; also see Tasmania Police: 2010).

Since their closure, a gap in alternative stable day programs for at-risk youth has been identified in both sides of politics and the community sector (*ABC News*: 2015). The closure of U-Turn occurred after a government evaluation. But evaluation of youth offender programs should not be based on rates of recidivism (see Clarke & Dawson 1999: 93; Sharley & Associates: 2002). Instead, youth offender programs should be evaluated on their ability to improve the health and wellbeing of clients, whilst increasing their re-engagement (Sutton, Cherney & White: 2008: 71). This is because desistence from crime can occur through multiple pathways (see Laub & Sampson: 2001). These findings highlight how policy makers hold unrealistic beliefs that youth workers can re-program young offenders in short period of time and for a low cost (see Coulter: 2015). Unfortunately, the consequence of closing these two programs in Southern Tasmania has resulted in young offenders having fewer options to

rehabilitate in the community. In one example, since the closure of U-Turn, a recidivist young car offender killed a pregnant mother after stealing and crashing the stolen car in Hobart.

On the 22nd of January 2016, a 15 year old killed a 24-year-old 33-week pregnant woman Sarah Paino when the Toyota RAV4 he had stolen with friends collided into her car after a high-speed chase (Tasmania Police: 2016a & 2016b). The crash occurred after the pregnant mother had taken her partner Daniel Stirling to work in Salamanca Square. She was on her way home with her 2-year-old son in her Nissan hatchback when the accident occurred on the corner of Davey and Argyle Streets. At the time of the impact, the offender was travelling at 110km/hr (Tasmania Police: 2016a). The 15-year-old driver fled the scene after the crash, but was later apprehended at his grandmother's house by police and was charged with manslaughter and car theft (Tasmania Police: 2016a & 2016b). Concerning reports soon followed about the youth's lack of remorse. It was reported that the youth stated to his friends immediately after the impact "catch yas later" before running off (Langenberg: 2016). Once at the police station he was quoted to be more concerned about his missing hat, opposed to the fact, he had just killed a pregnant mother (Killick: 2016).

The other three youths in the stolen car were admitted to hospital, with minor injuries. The passengers were another boy aged 15 and two girls aged 15 and 12 (Vinales: 2016a). The unborn child (later named Caleb) was delivered at the Royal Hobart Hospital (RHH). Her two-year-old son (who was in the car at the time of the crash) was lucky to only sustain minor injuries. Due to the

seriousness of the crime, the matter was referred to the Supreme Court, with the youth pleading guilty to the charge of manslaughter (Killick: 2016). During the proceedings, the prosecution argued the youth showed no remorse for his actions immediately after the crash. The youth's defence stated he had since reflected on his actions (Vinales: 2016b). It was also reported the youth was involved a violent clash with other detainees at the AYDC, specifically where he threatened staff with shards of broken glass (Billings: 2016a). The court case was delayed due to a forensic mental health assessment to determine if he was mentally impaired (Abey: 2016a). The results showed he was not. The Department of Public Prosecution Daryl Coates, SC, informed the court that the youth was a recidivist car offender with a long history of offending (Killick: 2016). Justice Helen Wood sentenced the youth to 5 years detention, with parole being available after serving half that sentence (Burgess: 2016). The crime and subsequent trial created public outrage and political debate for harsher sentencing for young offenders that are involved in car thefts and dangerous driving (Abey: 2016b; *ABC News*: 2016). The Tasmanian Government is now reviewing sentencing laws for adults who cause death from negligent or dangerous driving (Billings: 2016b).

This case study shows how the actions of one youth can destroy the lives of a family and impact on the consciousness of a whole community. This example also demonstrates how an under resourced youth justice sector can result in recidivist offenders escalating to more serious crimes. This problem is at the crux of understanding why legal systems justify new forms of diversions that are

based on short-term participation that do not resolve criminogenic needs, while extending bail conditions (Hannah-Moffat & Maurutto: 2012).

This is why Restorative Justice in the youth justice sector has not occurred without controversy (Hester: 2010). The failures of the State in rehabilitating youth have not occurred due to the adoption of restorative values into youth justice system, but instead have occurred due to poor governance and beliefs that Restorative Justice can operate like a magic wand with minimal resources. As described in the reports from the Commissioner for Children, for youth justice to be successful, services need to be well resourced to address trauma, neglect, poverty, homelessness, alcohol and other drug abuse and mental illness (Commissioner for Children Tasmania: 2013 & 2015a; 2015b; 2016).

But currently, there appears little interest in Tasmania to resource services for at-risk youth, which is reflected in the complete absence of regional bail hostels, mental health and AOD facilities for under 18 year olds in the State (see DHHS: 2016). The absence of youth specific services can be argued to increase the onset, maintenance and subsequent graduation of youth into the adult justice system. But as stated, other governments (like the Tasmanian Government) also look for low cost solutions to manage young offenders. This is one reason why Restorative Justice has been widely adopted incorrectly as a one-stop solution for all youth justice matters. The following sections will introduce restorative theory and discuss how Restorative Justice can be punitive if practiced incorrectly.

1.6 Introducing Restorative Justice

Restorative Justice is a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future (Marshall 1999: 5).

Restorative Justice is described as a process, a set of values and a social movement seeking to change the operation of traditional forms of criminal justice (Cunneen 2008: 290). It is also a third way of doing justice (Cunneen & White 2007: 332). According to Braithwaite (1989), its early conception in criminology began in the New Zealand family group conference system. At the heart of this new development, the New Zealand youth justice system adopted aspects of the traditional Maori culture to work with young offenders. From these beginnings, restorative practices and policies have been adopted internationally for both youth and adults alike (Maxwell & Hayes: 2006). In Australia, conferencing is widely based on the *Wagga Wagga* model (Moore, Forsythe & O'Connell: 1995); which means it uses police as conference facilitators to divert young offenders from court (Cunneen & White 2007: 341).⁴

In criminology, Restorative Justice has had continual academic interest in testing restorative theory, one being the benefits in reducing recidivism and increasing victim satisfaction in the justice process. For example, Cunneen and White state “restorative justice refers to an emphasis on dealing with offenders by focusing on repairing harm, and in so doing, involving victims and communities – as well

⁴ For discussion of differences see Cunneen, White and Richards (2015).

as offenders –in the reparation process” (2007: 333). These views have been replicated in other research findings, which show how Restorative Justice has meet the needs of both the victim and offender; and has lowered recidivism rates compared to traditional court (see Braithwaite: 1989, 2000, 2002; Bazemore & Umbreit: 1995; Hayes: 2005; Rodriguez: 2007; Robinson & Shapland: 2008; Daly et al: 2013).

For example, conferencing makes the offender take responsibility for their actions (Daly: 2003: 3) and allows the victim to respond directly to the offender (Wemmers & Cyr: 2004). Restorative initiatives have also minimised the effects of post-traumatic stress disorder (Angel et al: 2014); and though controversial, developing empathy amongst offenders (Komorosky & O’Neal: 2015). But the benefits of Restorative Justice still remain unclear, as there have also been mixed results from other restorative studies (Wood: 2016).

In an Australian study by Daly (2003), 89 restorative conferences in the greater Adelaide region of South Australia were studied between 1998 and 1999. In her analysis, Daly identified after conferences, victim satisfaction was commonly low; with almost half of victims not feeling the offender’s apology was sincere. This was because half of conference victims in her sample required medical treatment due to the offence; and most victims of property crime had out of pocket expenses, with some reaching six thousand dollars. Daly’s (2003) study shows how Restorative Justice does not always live up to its claims in delivering better justice (also see Marshall: 1999: 18). This is because offenders are often not remorseful in conferences due to the way offenders are often prepared or

referred. This problem has also been discussed by White (2003: 146), who believes there is confusion about how Restorative Justice theory occurs in practice, which is linked to poor governance, rather than poor theory. To further explore this topic, the following section will discuss how Restorative Justice is used as a cheaper form of justice compared with the court system and the problems associated with this practice.

1.7 How Restorative Justice Works

Restorative conferencing holds the potential not only to promote reconciliation between victims and offenders, but it may even bolster the legitimacy deficit suffered by criminal justice institutions (Doak & O'Mahony 2011: 305).

Since its conception, there have been a number of theories and studies supporting how and why conferencing works (Braithwaite: 1989; Murphy, Kristina & Irene Helmer: 2013; Dhimi: 2012). Restorative theories generally promote how Restorative Justice is better at repairing harm than traditional justice. Restorative Justice is believed to re-integrate the offender into the community through meeting the victim and accepting undertakings (Hurley: 2009). However, there have been mixed results in the effectiveness of restorative theory in practice (McAlinden: 2011) leading to the wide held belief that the benefits of Restorative Justice are over stated (Vieille: 2012). In response to these claims, this section will explore some debates that underlie restorative theory that guide practice.

One of the most significant theories within the Restorative Justice literature is Braithwaite's (1989) theory of re-integrative shaming. This theory emphasises the importance of shaming and its effect on reintegrating the offender back into the community to reduce future offending. To Braithwaite (1989: 9), criminal behaviour is a choice that has resulted from biological, psychological or socially constructed causes, which contributes to offenders having little control over their future (Braithwaite 1989: 9). Consequently, re-integrative shaming becomes a way to assist offenders to comply with the law, by making them identify what they did wrong and agree to restitution.

Integral to this rationale, Braithwaite (1989) identifies two types of shaming, re-integrative and stigmatizing. This means, depending on how conferences shame offenders, will result in either positive or negative outcomes. For example, re-integrative shaming occurs when people in authority respectfully disapprove of offending behaviour. Being respectful towards the offender allows a process of healing to take place and avoids labelling. In contrast, shaming that is stigmatising, promotes negative outcomes, which occurs by treating the offender with disrespect. The latter is viewed to label offenders as deviant, criminal or deficient. As a result, shaming that stigmatises will contribute to the offender to be angry and increase the chance of re-offending. To Braithwaite (1989), the way police, magistrates, facilitators and victims communicate with offenders is significant to rehabilitate offenders within institutional practices.

In contrast to these beliefs, Botchkovar and Tittle (2005 & 2008) disagree with Braithwaite's theory of re-integrative shaming. Instead, they believe conference

outcome can also be understood by strain, deterrence and self control theories of offending. But I do not agree with these findings, as Braithwaite already states in the reintegrative shaming theory that crime occurs from an individual choice, which has resulted from biological, psychological or socially constructed causes. This makes the argument by Botchkovar and Tittle (2005 & 2008) less relevant to further understand why conferences work.

But to other researchers, forgiveness is also an important concept to understand why conferencing is successful in reducing recidivism (Ahmed & Braithwaite: 2006; Nwoye: 2010; Murphy & Helmer: 2013). In one example, Murphy and Helmer, survey data from conference participants to determine the effects of forgiveness on reoffending rates. They found when forgiveness was offered; there were lower rates reoffending. In another view, apologies have been tested to increase the success rates of conferences and satisfaction of participants (Sivasubramaniam & Goodman-Delahunty: 2008; Blecher: 2011). To Dhami (2012), apologies in victim/ offender mediation cases have occurred without any contact with the justice system, demonstrating the success of apologies as a contributing factor. Dhami's (2012) research revealed offenders stated, "I'm sorry" in 1/3rd of cases and full apologies in 1/5th of cases. In all, victims who accepted apologies had higher satisfaction rates.

But Dhami's (2012) study did not identify the manner in which apologies were offered or accepted. As well, victims do not always attend conferences (Umbreit, Coates & Vos: 2001). This consequently makes the nature of forgiveness and apologies irrelevant in some cases. This issue raises theoretical concerns

surrounding the centrality of victim participation and acceptance of apologies within restorative theory (Bolitho 2012: 70-74). For example, public order offences don't have victims, as the offence is against the State. As well, youth can be formally cautioned for swearing in public spaces, though swearing is not necessarily illegal (White: 2002). Braithwaite's (1989) re-integrative shaming theory also becomes irrelevant, as youth have already been stigmatised by the police through unwarranted intervention. These examples demonstrate how Restorative Justice can be punitive due to existing practices in the justice system. But advocates such as Braithwaite dismiss these criticisms in comparison to the problems inherent within traditional justice. Importantly, Restorative Justice has been the only new development that has seen the increase of the involvement of victims in the justice process (1999: 19). Though I agree with this development, I still acknowledge the equal harm overt punishment in restorative initiatives can cause when considering best practice in offender rehabilitation.

1.8 Restorative Justice and Punishment

There has been a significant intensification of punishment over the past decade - at the same time as restorative justice practices have been introduced. Thus, there may be elements of restorative justice, retribution, just desserts, rehabilitation and incapacitation all operating within a particular jurisdiction at any one time (Cunneen 2008: 293).

Across Australia, Restorative Justice is the guiding principle for many youth justice policies, including the Youth Justice Act 1997 (AIHW: 2015b), which uses

community conferencing as the main diversionary model for young offenders (DHHS: 2008; Commissioner for Children: 2013). Though the benefits of conferencing have been well documented (see Shapland et al: 2007; People & Trimboli: 2007; Wilcox & Hoyle 2004), Restorative Justice has still been identified to operate as a form of social control (Hannah-Moffat & Maurrutto: 2012). This is because punishment is the main concept of the existing criminal justice system, with police being in control of who will be referred and for what reason (Crawford & Newburn: 2003).

The punitive nature of the justice system has originated from popular public opinion on how justice ought to occur. This is because retribution is psychologically satisfying (Gromet 2012: 11); and explains why restorative theory is challenging to teach to parents prior to a conference. This is believed to lead to confusion during and after conferences (Bazemore & Mara: 2004; Wenzel, Okimoto & Cameron: 2012). For example, to Gromet (2012) victim satisfaction is based on either restorative or retributive ideologies. If victims adopt restorative values, restoration and satisfaction will occur through inclusion, apology and rehabilitation of the offender. However, if retributive values are perceived, victim restoration and satisfaction will only occur if the offender is punished. This is because the crimes provoke moral outrage (Gromet 2012: 11). Therefore, a challenge for restorative programs is ensuring that restorative ideologies have been educated to all participants prior to conferences taking place (Wachtel, O'Connell & Wachtel 2010: 163).

Conferences can also fail due to punitive ideologies held by facilitators, which occurs due to a lack of training offered by governments. For example, Prichard (2004) researched how police facilitators are strongly restorative, but at times become authoritarian when deciding offender undertakings. To Prichard (2004), police facilitators made conference undertakings unrealistic for youth to complete. This problem has also been researched by Young (2001: 197) who views police conferences to be inherently centred on enforcing shame as a means of punishment. This approach creates situations where police have complete control over the whole justice process making them both judge and jury of their own case. To Young, police conferences are fundamentally coercive, stigmatising and institutional, which is reflected within some aspects of police culture (2001: 200).

In response to these shortcomings, theorists such as Wood and Suzuki (2016) expect Restorative Justice will continue to merge with the existing justice system, but will not “involve meetings between victims, offenders, and other vested parties that come together with the respective aims of redress, accountability, and the making of amends” (Wood & Suzuki: 2016: 160). To say the least, this is a pessimistic account on the future of Restorative Justice. The point made here is that the further institutionalisation of Restorative Justice will occur at the cost of the victim, as the focus is primarily to reduce recidivism rates and to reduce the cost of youth related crime (Polk: 1994; White & Cunneen: 2007; Cunneen: 2003 & 2007; Cunneen & Doyle: 2010). Interestingly, this is a contrast to the findings by Prichard (2004) and Young (2001), who view institutional centred conferences held by police to be overly victim centred.

Problems such as these similarly reflect the beliefs of researchers' Wood and Suzuki (2016) who view the problem of delivering restorative diversions occurs due to the lack of standardised procedures in policing and the youth justice system (also see McCold: 2000; Dhami & Joy: 2007). For example, without proper institutional procedures in place, youth have been pressured by police to plead guilty early and without representation (Cunneen 2003: 190; Cunneen 2008: 297). Consequently, informal practices have led to the net widening of youth into formal diversions (Prichard: 2010). Net widening is seen to be a direct response of poor police practices, specifically by victimising disadvantaged groups (White: 1994a; Allard et al: 2010). Within this debate, Richards (2010) believes the police have significant discretionary powers across Australia over the cautioning of first time and low-level offenders. Therefore, police culture and the lack of institutional procedures and inadequate training of facilitators all contribute to conferences becoming punitive.

But not all criminologists share these views. According to Daly (2003) and Stockdale (2015) police involvement in diversions are beneficial. This is because police hold positions to ensure that conference outcomes are not excessive for the offender. As mentioned, the Wagga Wagga model of conferencing in Australia is based on police involvement and has been demonstrated to benefit the outcomes of both victims and offenders since its conception. Thus, the concept of punishment in the restorative paradigm does not need to deter advocates. Instead, concerns can be minimised through appropriate governance and reviews of restorative practices in the police and in the court system. By doing

so, extended bail conditions, forced 'voluntary' participation and lack of due process can be systematically identified and minimised.

These debates have been the result of long standing arguments between the advocates of Restorative Justice and those who want harsher penalties for young offenders (Daly: 2016). This black and white perception of justice is unhelpful as it only adds to the misconception that everything is right with Restorative Justice and everything is wrong with Retributive Justice (Cunneen & Doyle 2010: 40-41). This debate also does not assist that both models are actually complementary and not contradictory. For example, Daly (2002) believes both forms of justice are compatible, such as in post conviction models that increase sentencing options (Rossner, Bruce & Meher: 2013). Still, there is a gap in the literature to understand how to effectively incorporate restorative initiatives to improve outcomes for offenders, victims and families. But, even with these theoretical shortcomings, the incorporation of Restorative Justice has increased satisfaction in the justice process by practically making offenders accountable to victims and by giving the victim a role in the justice process (Bolitho, Bruce & Mason: 2012). Therefore, it is more advantageous if future restorative research focuses on how restorative programs are operating, for who and why.

1.9 The Effectiveness of Restorative Justice

According to its advocates, Restorative Justice has significant benefits over traditional court outcomes and can readily adapt to different jurisdictions and models (Braithwaite: 2002; Daly: 2016; Hayes: 2005). Due to its increased use

internationally, governments have for some time been interested in its effectiveness to reduce reoffending, increase victim satisfaction and reduce costs to the justice system. This is why the literature in and outside Australia largely demonstrates the success of conferencing in reducing reoffending, (see McGarrell & Hipple: 2007; Rodriguez: 2005 & 2007; Daly et al: 2012). However, other research suggests there is no significant difference in reducing recidivism between conferences and court (see Fitzgerald: 2008; Jones: 2009; Davis: 2009; Smith & Weatherburn: 2012; Shapland et al: 2008). These studies indicate an unknown set of variables outside restorative theory that influence recidivism.

In an Australian study, Smith and Weatherburn (2012) researched reoffending rates amongst youth who attended conferencing. Results showed no significant differences in the frequency of re-offending, the seriousness of re-offending, or the duration from their first re-offence after the conference. From these findings, Smith and Weatherburn (2012) conclude that conferencing in NSW is no more effective than the children's court in reducing recidivism. In another large-scale study by Jeong, McGarrell and Hipple (2012), 782 youths in Indianapolis, USA were researched over a 12-year period. Results also found there were no differences in reoffending between the control group and youth who attended conferencing. But, findings did show that conferencing had short-term benefits over attending court. This indicates that the benefits of conferencing influence the offender's immediate behaviour. But without post conference support, external social stressors will continue to influence previous offending trajectories. This is why Jeong, McGarrell and Hipple (2012) state that desistance from offending cannot simply stop in the time frame of a single conference. Even

with these criticisms, Jeong, McGarrell and Hipple (2012) still conclude that Restorative Justice is preferable over traditional court; due to the benefits conferencing has for victims.

In another example, Bergseth and Bouffard (2013) studied why young offenders either participated or not participated in conferencing. Their findings indicated that youth who chose not to attend conferencing did so because they did not admit guilt, or did not want to engage in dialogue with the victim. This shows how Restorative Justice ought to operate. This is because, forcing offenders to attend a conference against their will, increases the chance of further harm to the victim, as well as wasting resources on youth who are not ready to admit guilt. Simply, conferencing is not appropriate for all offenders. Therefore, participating in restorative diversions needs to be a voluntary process and may not be suited to offenders who have not shown remorse.

The question of who is suitable to attend a conference is also a repeated issue. Currently (under jurisdictional legislation), Australia limits conferencing to youth who have committed low-level offences under the justification to protect victims from additional harm; and limits its uses for adults and offenders who have committed serious crimes (Joudo-Larsen: 2014; Vanfraechem: 2013). But using a blanket rule in legislation does not give all victims the chance to participate in the conference process. In these instances, the age of the victims is irrelevant, but the age of the offender is. Arguably, both offender and victim would need to voluntarily agree in order for a conference to occur. For this

reason, the benefits of conferencing for adult and serious offenders have also been established (Bolitho et al: 2014; Halsey, Goldsmith & Bamford: 2014).

For example, McDonald (2012) demonstrates how a restorative conference gave closure to a family whose son had been killed by a 25-year-old drunk driver when walking home. During the conference, the family was informed of what had occurred from the offender's point of view prior to the collision. Interestingly, it was the offender's birthday and he was driving to the next bar when the accident occurred. The driver had already spent three years in gaol prior to the conference being conducted (the conference operated within a post-conviction model). From the offender's perspective, the conference allowed him to hear the grief that the victims' family had gone through. As a result from the conference, both families embraced and wished each other well. Examples such as these signify the robust nature of restorative practices, which can be used for serious offences such as manslaughter to assist victims and offenders heal from the offence.

From this perspective, policy makers who limit conferencing to only youth, are stating Restorative Justice only works for victims of youth crime, though it has been proven to benefit victims and offenders of all ages and all offences with the right resources, planning and governance. But as conferences in Australia generally deal with youth matters, more studies in Australia have tested the effects of conferencing with serious young offenders. In one example, Daly et al (2013) examined the reoffending rates of 365 juvenile sexual offenders over 6.5 years in South Australia. Results indicated higher rates of general reoffending

amongst youth who were dealt within court and lower rates of re-offending amongst youth who had attended a conference. Findings showed that 54% of sexual offenders who attended a conference re-offended with non-sexual offences, compared to 9% who youth who re-offended with new sexual offences.

This research demonstrates that young sexual offenders who attend conferences reduce their propensity to commit new sexual offences. This indicates the value of the offender participating in the restorative process and the gradual nature of desistence from crime. However, Daly et al (2013) did not indicate what attributes in the conference were most significant to the offender, or identify if victims attended the conference. As well, rates of victim satisfaction were absent that would have been useful to indicate if there was a correlation between offender recidivism and victim participation. Therefore, further research into the appropriateness of serious offenders at conferences is needed to further understand the experiences of victims and its effects on recidivism.

Subsequently, to Daly et al (2013) different theories of desistence and models of intervention inform recidivism findings. This is because analytical problems plague recidivism research because it is largely based on official court and police data, which relies on different definitions of recidivism that are the basis of determining the effectiveness of restorative programs.

Apart from recidivism and victim satisfaction, governments value Restorative Justice because of its ability to operate at substantially lower costs than traditional justice (KPMG: 2010), which is one reason why governments can be seen to have initially adopted Restorative Justice. But the cost effectiveness of

Restorative Justice should not be a political justification for its future development. Arguably, by under resourcing justice initiatives, conferences can readily and unnecessarily fail due to the inability of facilitators to prepare participants on restorative theory and provide post conference support for the offender and victim.

For example, to Webber (2012) restorative conferences are more cost effective than the children's court, which included the children's court, youth justice services, the police and legal aid. Results showed that youth justice conferencing was 18% more cost effective than the children's court. But Webber (2012) also critically analysed the running of the youth justice sector, arguing that if administrative costs were lower in the youth court, savings could be redistributed to resource youth justice in other ways. Though Webber's study is informative on costs of traditional justice, he did not explain that restorative practitioners were not qualified justice professionals (Marshall: 1999). In this view, facilitators are paid less and are expected to run conferences with fewer resources, external to the standards set in the court system.

For example, restorative facilitators in the U.K. are paid £500 for a completed case, in comparison to £2,500 for a prosecutor (Marshall 1999: 19). In addition, according to Crawford (2003) lay people employed in the justice system incur additional hidden costs to the State. This is due to their lack of efficiency, the increased chance they will make errors and their influence in lowering participant satisfaction. Consequently, cost savings in restorative research needs to be read with caution. As well, problems associated with meeting standards in

traditional justice needs to be taken into consideration, especially when research indicates facilitators are influential in creating environments for apologies to occur (O'Hara & Yarn: 2002; Petrucci: 2002). Therefore, the use of lay practitioners as a low cost solution is one reason why conferences fail and is caused through inadequate resourcing by governments (Choi & Steverson: 2009).

Another reason why conferences fail is due to the lack of post conference support (Jeong, McGarrell & Hipple: 2012). For example, Wagland, Blanch and Moore (2013) show how participant satisfaction changes after a conference. In the study, offenders and victims were surveyed immediately after the conference and again four months later. Findings indicated that 141 victims and 263 offenders were satisfied immediately after the conference. But after four months, 96 victims were less satisfied due to a lack of feedback from conference staff regarding if offenders completed undertakings. This suggests satisfaction rates are influenced by resourcing and professional standards. This implies that report findings based on satisfaction immediately after conferences need to be read with caution, as the needs of victims continue post conference. Further victim research is desirable to understand how to appropriately resource conferencing to meet the needs of all stakeholders, including in how to structure and resource post conference support.

With concerns surrounding the outcomes for victims in conferences, Choi, Gilbert and Green (2013) agree that conferences have mixed results for victims, which is due to additional stressors that victims face when attending a

conference. In this case, victims in a mid western city in the United States were re-victimised during a conference. Findings from 34 conferences indicated victim ostracism was contributed to facilitators not being prepared, facilitators pressuring victims to be there for the offender's needs and not their own; and facilitators allowing the offender's family to intimidate them during the conference. These findings suggest re-victimisation can occur readily in conferences and is a result of poor facilitator training and a lack of conference resources to prepare all participants prior to a conference.

This study also demonstrates why conferences should not proceed with offenders who do not admit guilt and other participants who have not been adequately informed of restorative principles and conference rules. Arguably, the facilitator needs adequate time to spend with participants prior to the conference to determine the suitability of those attending. Arguably, by not having this process in place, can result in higher rates of low satisfaction for all participants. In another example, Gal and Moyal (2011) found low satisfaction amongst 36 young offenders a part of the RISE (Re-integrative Shaming Experiments) project compared to court. This was predominately due to offenders having negative experiences during the conference. Reasons for low satisfaction included, offenders feeling dominated by facilitators, or because offenders were unable to find the right words to communicate their feelings.

A number of studies have noted the inability of youth to communicate effectively in the justice system (see Snow & Powell: 2008; 2011a; Snow, Powell & Sanger: 2012). In one study, Snow and Sanger (2015) demonstrate how young people

are re-victimised within restorative initiatives due to low language skills. This problem is viewed to lead to further criminalisation and punitive outcomes. A concerning problem for youth is the lack of understanding some criminal justice professionals have in understanding youth's inability to effectively communicate narratives. In these instances, criminal justice professionals perceive youth to lack remorse; or be unwilling to engage in the proceedings. But as demonstrated by Snow and Sanger (2015), a lack of communication could be a result of poor development, stemming from childhood trauma. So, for conferences to be effective, training, planning and resourcing needs to meet the needs of individual cases. As demonstrated in this section, consequence of relying on conferences to be a low cost solution can inadvertently cause higher rates of conferences to fail (see Sherman & Strang 2007: 86; Maxwell, Morris & Anderson: 1999).

In summary, understanding how governments translate Restorative Justice into practice will continue to be a topic of concern in criminology (see White 2003: 146). This is why research into local models of Restorative Justice is desirable. Locally, since Prichard (2008), the Youth Justice Act 1997 has been reviewed, leading to the opinion that previous limitations of the conferencing system have been resolved. But as indicated in this chapter, youth crime remains a problem, as is the issue of governments misinterpreting restorative theory in practice.

So how is conferencing operating in Southern Tasmania and what groups of youth is it most successful with? To advocates like Braithwaite (2002), everyone can equally benefit from conferencing. But conferencing relies on individuals

taking responsibility to stop offending. This is a concern for critical theorists that believe people are more likely to offend due to the effects of social inequality . As it will be discussed in the next chapter, these theories will argue how social structures favour particular groups over others, which also influences how the justice system largely processes crimes of the poor and is unable to address the effects of social inequality. For these reasons, critical theories are important to understand how Restorative Justice has become ineffective to address the causes of crime, instead making offenders individually responsible for their own rehabilitation. Therefore, improving how the justice system responds to social inequality, will in turn shape how restorative intervention addresses the social influences of why young people offend. To further explore this topic, the following chapter will discuss how governments and contemporary criminology understands youth offending.

Chapter 2

Criminological Theories, Risk Factors and a Structural Critique

There has been much theoretical debate in criminology on when and how to intervene in the lives of young offenders (Barnert et al: 2015; Burnett & Maruna: 2004). Restorative Justice is one example showing how new initiatives in youth justice are claimed to reduce offending by diverting youth from detention. But how is Restorative Justice addressing the causes of crime? In criminology, the criminal justice system has a responsibility to rehabilitate offenders. But as it will show, for criminal justice to be effective it needs to be able to address the causes of offending.

This is a stark contrast to neo-liberal ideals that present crime to be an individual problem, which is not socially created. In this chapter, youth crime will be discussed as a product of social disadvantage and abuse, making diversions based on short interventions incapable of dealing with the underlying causes of crime. Young offenders are also not a homogenous group. Realistically, young offenders have found themselves involved in the justice system for many reasons, thus requiring the youth justice system to provide a range of services to meet these needs. By failing these needs, early intervention simply becomes punitive. The consequence of punitive early intervention is seen to result in greater numbers of at-risk youth graduating into the adult justice system. A main cause of what makes intervention punitive is how it fails to address the causes of

crime. The chapter will highlight the dominant and critical explanations in criminology why youth offend, which will also be used to analyse findings of this study.

2.1 Youth Offending Theories

To some criminologists, it is of more importance to predict offending trajectories by researching developmental theories, rather than revealing structural causes of crime (see Moffit: 1993; Gottfredson & Hirschi: 1990; Farrington: 2000). This is one reason why developmental theories of crime are now the dominant paradigm of youth justice systems (Kemshall: 2008). But, individual concepts of offending have also been misinterpreted to mean a person is biologically deficient (Anderson 2007: 7). This theory was popular amongst classical criminologists in the early 1900s (such as Lombroso) that tested biological characteristics to determine criminality (Rafter: 2008). But to contemporary criminologists, developmental theories view offending to be the result of multiple negative psycho-social factors that inhibit the natural progressions of human development, such as the effects of childhood trauma on impulse control (see Anderson 2007: 79).

Correlations have been established between genetics and the onset and maintenance of offending (see Wright et al: 2012; Jackson & Beaver: 2016). This theory is said not to be in the interest of criminology and is criticised for linking biology (the *Gene X* factor) with offending (Barnes et al 2014: 589). But as I will demonstrate, there are many other elements outside individual biology that influence the onset of offending. For example, social inequality has a significant

impact on offending, as the majority of youth justice clients come from disadvantaged backgrounds (Cutuli et al: 2016). This is one reason why intervention in the lives of young people can be successful in facilitating desistence, or fail due to the inability of intervention to address the underlying causes of offending.

This is one explanation why approaches in criminology have been mixed. For some criminologists, intervention should occur early in life (see Farrington: 2000, 2011a & 2011b; Homel et al: 2015). Whereas for other criminologists, early intervention can be problematic, as it is believed to increase the propensity of offending later in life (see Bernburg & Krohn: 2003; Weatherburn, Cush & Saunders: 2007). For example, Lopes et al (2012) researched how the early intervention of youth by the police and court increases the chance of long term unemployment and drug abuse in adult life. This study demonstrates how unnecessary intervention in the lives of youth can amplify criminality, as a direct result from punitive or unnecessary intervention. This indicates that practices in criminal justice need to be regularly reviewed and based on best practice.

In criminology, when to intervene in the lives of youth is a challenging question and has previously been based on Moffit's (1993) 'general taxonomy of offending theory'. This theory supposes two categories of anti-social people 'adolescent limited offenders' and 'life course persistent offenders'. Adolescent limited offender's experience short criminal careers and are more likely to only engage in low level offending, which naturally desists with age. To Moffit (1993), this phenomenon occurs from the inability of youth to attain adult lifestyles, or

having low self-control that will later develop in adulthood. Therefore, desistence will occur naturally when youth can legitimately attain material goods through completing education and gaining employment. By contrast, life course persistent offenders commence offending at an early age and continue offending throughout adulthood. They are also more likely to have had poor parenting, be involved in serious offending and be impulsive.

Though influential in criminology, Moffit's theory has been criticised for viewing offenders as having predetermined trajectories (see Paternoster et al 1997: 236; Maruna: 2001; Ward et al: 2010). This is because it does not adequately explain why some offenders desist prior to adulthood, while others continue to offend throughout their life (Kazemian 2007: 17). The theory has little interest in why offenders desist, which has also added to the belief that nothing works (Cullen & Gendreau: 2001). But this rhetoric is problematic as it justifies punitive approaches to offender management (see Martinson: 1974; Cullen et al: 2011). Youth offending theories therefore inform government agendas in how best to manage young offenders. The following sections will detail developmental criminology, life course criminology and Marxist criminology to establish how separate youth offending theories can all assist in improving youth justice intervention in Southern Tasmania.

2.2 Developmental Criminology

Developmental criminology is interested in the causes of offending and has been studied since the 1930s (see Glueck & Glueck: 1930). Continuing into the 1990s, developmental criminology has re-emerged to study the life trajectories of

offenders and how risk factors predict the onset, maintenance and desistence of offending (Farrington 2010: 249). For example, adolescent offending has been correlated to family, friends, school and local community (Maguin & Loeber, 1996; Farrington: 2007). Developmental theorists believe that early intervention and programs that reduce predictive risk factors should be a part of youth justice intervention (Homel: 2005; Lizotte et al: 2015). This is why developmental theories are important to understand the logic of youth justice intervention. Though there have been a number of theories put forward to explain the onset, maintenance and desistence from offending in developmental criminology (Hayes: 1997; Hagan & Foster: 2003; Jennings: 2007). Arguably, the most influential theory in developmental criminology is 'the general theory of crime' developed by Gottfredson and Hirschi (1990). The general theory of crime supposes that people offend due to low self-control, impulsiveness and a need to engage in risk taking behaviour. Theories based on low self-control are valued in the study of youth offending, as they readily explain why some teenagers engage in crime because of a lack of self control which is then naturally developed into adulthood. But a shortcoming of the theory is how the concept of desistence is often overlooked.

In the general theory of crime, desistence simply occurs when self-control is developed (Kazemian 2007: 15). The lack of interest to explain the complexity of desistence is one reason why the general theory of crime has had criticisms (see Laub & Sampson: 1993; DeLisi & Vaughn: 2008; Longshore, Chang & Messina: 2005). For example, the general theory of crime does not adequately explain particular offences, or discuss the negative effects the justice system has on long

term offending (see Paternoster & Brame: 1997; Bernburg, Krohn & Rivera: 2006). Instead, crime is fundamentally based on low self-control, which ignores offences that are well planned and need specific access and achievements to commit, such as in the case of financial fraud (see Benson & Moore: 1992). Therefore, a main criticism of this theory is that it ignores all white-collar crimes by limiting its theoretical interest towards crimes of the poor (Steffensmeier: 1989).

This review is symbolic of other developmental theories in criminology that are focused on researching what influences the onset of criminal careers over the life course (Blumstein, Cohen & Farrington: 1988). Its strengths are identifying risk factors in early childhood, which has informed early intervention strategies to reduce the chance of future offending. As well, empirical evidence has been achieved through longitudinal research that has followed sample groups and their offending trajectories over many years (DeLisi & Piquero 2011: 289). By adopting this methodology, studies have followed the offending trajectories of children up to 70 years of age and across a number of countries (see D'Unger, Land & McCall: 2002). These studies have been based on both official records from institutions and qualitative accounts from participants. Outcomes have identified both predictive risk factors that increase the chances of offending and protective factors that decrease the chances of offending.

One notable longitudinal study is known as the 'Cambridge Study in Delinquent Development' (CSDD) (for complete works of CSDD see West: 1969; West & Farrington: 1973; Farrington & West: 1990; Farrington, Lambert & West: 1998;

Farrington: 2003 & 2005; Farrington et al: 2006; Farrington, Coid & West; 2009).

The Cambridge Study tracked the life course of 411 boys from South London, England over 40 years. The study has established how risk factors can predict the onset and maintenance of offending. For example, rates of convictions amongst boys increased by 85% when they had five or six risk factors, compared to boys with four or less (Farrington, Coid & West: 2009). Similar findings have also been replicated in Australia. For example, Stewart, Dennison and Waterson (2002) examined data of 41,700 children born in Queensland over a 17-year period. The research examined 11 predicative risk factors of child maltreatment. The most influential predictive risk factors were physical abuse and neglect (Stewart, Dennison & Waterson 2002: 6). Findings showed that out of the total research population, 10% were in the youth justice system. But this same percentage of youth also had contact with child protective services. This study demonstrates the correlation between early child abuse, trauma and offending trajectories.

By using longitudinal research methods, studies such as these have established the validity of studying predictive risk factors and the importance of developmental theory in criminology. From these studies, findings have influenced the development of early intervention, such as pathway research (Homel et al: 2015). But to criminologists such as Farrington (2012), early intervention is several years too late after the onset of childhood delinquency; and is still a contemporary problem facing youth justice systems. In his view, governments have not adequately resourced youth justice and child protection systems to reduce the effects of early childhood maltreatment. To further

explore this belief, the following section will discuss a selective review on the correlations between predictive risk factors and offending. This review will show how young offenders often come from maltreated (and at times) generationally abused families, reflecting the intensive intervention needed by the youth justice sector to overcome the problem of offending.

2.3 The Significance of Risk Research

Youth who are poor, impulsive, poorly supervised by their parents and exposed to deviant friends are more likely to offend (Gatti, Tremblay & Vitaro 2009: 991).

To developmental criminologists, identifying predictive risk factors determine the likelihood of the onset, frequency and maintenance of offending (Farrington 2007: 605). This paradigm is considered essential in developing early intervention strategies, as well as understanding how certain risk factors in childhood contribute to particular offending trajectories later in life (Wolff, Baglivio & Piquero: 2015). For many theorists, trauma and immediate adverse ecological factors are most influential in predicting offending in childhood (see Barkley: 1997; Ford et al: 2006).

To other criminologists, low cognitive ability, anti-social values, risk taking and negative emotionality are more influential in predicting anti-social behaviour (Lahey & Waldman: 2005). For example, the relationship between low academic achievement and crime is an accepted belief in criminology (see Gottfredson 2001: 32; Lochner: 2007). This concept is also explained by Snow and Powell

who state, “anti-social behaviour invariably has its onset during the primary school years and is typically associated with exclusion, either in or out of school...exclusion in turn produces alienation from pro-social values and role models, and reduces a young person’s opportunities to succeed” (2012: 3). This statement is part of a wider body of research that supports the concept of low education and early onset offending (see Witte, Dryden & Tauchen: 1994; Lochner & Moretti: 2001; Bottrell: 2007). These studies argue that good government support to schools will in turn retain at-risk youth and lower youth offending. By under funding schools, governments will continue to fail the needs of at-risk youth and increase the propensity of their offending (see France, Freiberg & Homel: 2010). This is one example how neo-liberalism creates the view that at-risk youth should be responsible for their own academic success and that students should independently transition into the workforce (see Goodwin & O’Connor: 2005).

This explanation also identifies why high rates of youth in detention need speech therapy (Bryan, Freer & Furlong: 2007). Snow (2009: 102) has explained this phenomenon to occur from the impact of dysfunctional home environments, which inhibits communicative development. This also explains why “criminal and anti-social parents tend to have delinquent and anti-social children” (Farrington 2011a: 131). Poor parenting is a main argument in the general theory of crime by Gottfredson and Hirschi (1990); and has been a focus in academic research to predict the onset of criminal careers (see Wilson: 1987; Nofziger: 2008; Lizotte et al: 2015). Studies that have explained offending to derive from poor parenting have focused on adverse effects of children being

exposed to issues of drug use (Hardaway & Cornelius: 2013), imprisonment (Toohey: 2012; Flynn: 2013), anti-social peer networks (Haapasalo & Pokela: 1999; Snow: 2009). Locally, there has also been research on the effects of having criminal parents and its effects on youth offending (Goodwin: 2008; Goodwin & Davis: 2011). The consequences of children growing up in anti-social environments reflect the cross over between young offenders and youth on child protection orders (DHS Victoria 2005: 7; Kenny & Nelson 2008; Mendes, [Jonson-Reid & Barth: 2000]). This association reinforces particular values of an anti-social world, which is defined by experiences of abuse, neglect and poverty. The reality of youth growing up in these environments would arguably create false impressions of life and the focus needed to remain in school, which explains why risk research is important to develop early intervention strategies.

Within developmental criminal career research, the correlation between age and offending is a strongly accepted theory (see Hirschi & Gottfredson: 1983; Farrington: 1986; Sampson & Laub: 1992 & 2005; Sparkes & Day: 2016). Age is also a means of analysis for governments to understand crime (ABS: 2014c). Peak offending is believed to occur in late adolescents, which is also the most prevalent age for offending out of all age groups (Moffit et al: 2002; AIC 2014: 37-38). Both academic and government research indicates offending decreases after adolescents (AIC 2014: 39; ABS: 2015c; Farrington: 1986; Sparkes & Day: 2016). However, why some adolescent desist from offending prior to reaching adulthood, while others continue to offend into their 30s has been a contested issue for criminologists and has been labelled 'the great debate' (Rocque, Posick & Hoyle 2016: 3). Unlike Moffit's general taxonomy of offending theory, other

studies have researched deeper answers past the concept of age, with one explanation pointing to the effects of victimisation (Muncie: 2000; Burton: 2006, Wilson et al: 2016). In these studies, the victimisation of young people occurs in a number of ways, which include: labelling (Lopes et al 2012), police practices (Allard: 2010), poverty (Allard, Chrzanowski & Stewart: 2012) and social inequalities that neglect youth specific issues (McAra & McVie: 2007).

This is why to critical theorist's further explanations past age analysis are missing from public, academic and political reforms (Sampson & Laub: 1993). This is one explanation as to why youth justice systems fail to meet the needs of young offenders by making crime an individual problem. Though it is important to understand when peak offending occurs, age as a primary indicator of offending is problematic. This is because it creates a belief that nothing will work for teenage offenders, leading to tokenistic interventions. Therefore, governments should instead use age research to better equip early intervention strategies to target these age groups and the issues facing them.

The problem of trauma is explained in detail by Ford et al, who states, "complex trauma is associated with an extremely problematic combination of persistently diminished adaptive arousal reactions, episodic maladaptive hyper arousal, impaired information processing and impulse control" (2012: 694). Trauma is another risk factor that predicts the early onset delinquency and later recidivism (Barrett et al: 2014; Baglivio et al 2015). Childhood trauma is a common background of young offenders and is related to experiences of homelessness, physical, emotional and sexual abuse and poverty (Wolff, Baglivio & Piquero:

2015). Due to these childhood experiences, young offenders are believed to be more likely to have a range of social, developmental and cognitive health disorders, such as: post traumatic stress disorder (PTSD), attention deficit hyperactivity disorder (ADHD), oppositional defiant disorder (ODD) and other behavioural personality disorders that contribute to substance use and explosive anger (Ford et al 2012: 696).

The prevalence of trauma amongst young offenders also increases the need for governments to provide trauma informed and therapeutic care in youth justice (Day, Howells & Rickwood: 2004; Gimson & Trehwella: 2014). Within trauma research, the role of poor parenting has been identified to contribute to young people engaging in crime through peer association, that leads onto alcohol and other drug abuse (Mendes, Baidawi & Snow: 2014; Melander, Tyler & Schmitz: 2016). For example, illicit drug offences have steadily increased since 2008 (ABS: 2016). A notable amount of offending by youth occurs whilst they are under the influence of alcohol and other drugs (AODs) (DeLisi et al: 2015). Studies have raised debates regarding the relationship between specific drugs with particular offences, with alcohol being a common factor influencing violence (see Lennings, Copeland & Howard: 2003). Research has also focused on how extended drug use can lead youth into serious and offending (Phillip: 2012). Other AOD studies have revealed the nature of drug use in youth detention facilities (Howard & Zibert: 1990; Cope: 2003), how it inhibits desistence (Schroeder, Giordano & Cernkovich: 2007); and as demonstrated by Turner et al (2011), the adverse impacts of parental drug use on children. In short, there is significant literature linking AOD use to the early onset and maintenance of youth offending.

However, public and media views have over represented the level of drug use amongst youth. This has led to all young people within the adolescent age group to be readily labelled as drug users by the media, when in fact youth are statistically under represented in drug use and drug dealing when compared to adults (Shiner & Newburn: 1997; Pain: 2003). The media also does not portray the reality why some youth commence selling drugs to financially survive because of the lack of parental care (Lenton et al 2015: 3). Whereas to Hammersley (2011), youth who use drugs do so to medicate themselves as a result of trauma. Therefore, there are many explanations as to why and how drug use impacts on youth and youth offending. But still, the effects of AOD use on youth crime are significant, which supports AOD work in youth justice intervention. This is because the consequences of AOD use can lead to early disengagement from school, which to Steurer and Smith (2003) is one of the most important tools to rehabilitate young offenders.

In summary, this section has discussed research in developmental criminology that correlates specific risk factors to offending. Age is readily identified in government reports as an indicator of offending. But understanding youth crime to be merely a product of age has limitations, as it neglects other social and developmental factors associated with young offenders. It also identifies the need for well-resourced youth justice systems that address issues relating to trauma and the difficulties of at-risk youth to transition from education to the workforce. Therefore, reducing risk factors early is important to reduce the chance of offending. This concept is embedded in desistance theories that explain how youth stop offending. The following section will discuss life course

criminology and a selective review of other desistance theories relevant to understanding youth justice in Southern Tasmania.

2.4 Life Course Criminology and Desistance Theories

Few phenomena in criminology are as widely acknowledged and as poorly understood as desistance from crime. For most individuals, participation in 'street crimes' generally begins in the early teenage years, peaks in late adolescence or young adulthood; and ends before the person reaches 30 or 40 years of age (Maruna 1999: 1).

The difference between developmental and life course criminology is that life course criminology concentrates on how offenders desist from offending, opposed to the onset of offending. Developed by Laub and Sampson (1993), the life course explanation is based on an age-graded theory and informal social control theory of crime. Life course theories are developed from a general developmental age theory, which seeks to determine how favourable turning points such as marriage, gaining meaningful employment, educational achievement and having children can reduce offending trajectories (Sampson & Laub 2005: 6-8).

The strength of life course criminology is how it explains why some offenders desist from crime when presented with specific turning points, whilst others continue to offend. For Sampson and Laub (2005: 15) predictive factors are problematic, as all individuals have the ability to change when life becomes

favourable. This view also challenges Moffit's (1993) theory that believes offenders should be categorised. Instead, life course criminology is against theories that make life pre-determined. In its place, life course theorists believe offending trajectories can change when positive events occur. Turning points explain how times of transition can create new perceptions that change the need to offend through establishing worthwhile social bonds (Laub & Sampson: 1993: 304). Simply, Laub and Sampson show how desistence can occur naturally without intervention from the criminal justice system and that having pathways out of crime is a beneficial way for governments to understand how to practice offender rehabilitation and crime prevention⁵.

Within this literature, there has been a considerable amount of research into the positive effects of employment (Glaser & Rice: 1959; Uggen: 2000), having a child (Neale & Davies: 2016; Ladlow & Neale: 2016); and marriage (Laub, Nagin & Sampson: 1998). In these studies, offenders have changed their previous lifestyles when their circumstances have improved. Subsequently, offending is most likely to occur when relationships end (Raphael & Winter-Ebmer: 2001), or when you become unemployed (Farrington: 1977; Larson, Sweeten & Piquero: 2016). But, younger teenagers may not have the ability to get married or have meaningful employment. In these cases, the benefits of a young person having stable relationships with pro-social role models and family, or getting a casual job in the school holidays are equally of value. In turn, this symbolises why youth from dysfunctional backgrounds are more at-risk of offending, as they may not have role models of access to legitimate pathways to earn money.

⁵ For a review of desistence and rehabilitation work see Graham (2016).

The concept of turning points has also been critiqued. One reason for this is because of the high rates of adolescent fathers in prison (see Macmillan: 2005; Buston et al: 2012). This trend is contradictory to the life course belief that parenthood is a positive turning point that stops offending. But, there are a number of reasons why young fathers continue to offend. Firstly, young fathers in prison have previously experienced a number of risk factors that include a history of risk taking behaviour, involvement in the youth justice system, growing up in low socioeconomic conditions, experiencing early and long term AOD abuse; and having low education achievements (Barlow et al: 2011).

Though it is easy to demonise young fathers in the justice system, these young men are more likely to have experienced trauma growing up, from exposure to violence, sexual abuse and AOD abuse in the family home (Golzari, Hunt & Anoshiravani: 2006). It is also likely that adolescent male parents involved in youth justice have had long-term government and welfare support and are not trained in any profession (Shannon & Abrams: 2007). This is why young fathers in the justice system are more likely to experience more problems to desist from offending, which is also influenced by their connections with other young offenders. This highlights the difficulties why it is hard for youth to find pathways out of crime (Ryan, Williams & Courtney: 2013). Though a difficult task, governments still have a vested interest to rehabilitate young offenders, by understanding how desistence occurs.

Leading this movement, the pathways perspective explains the social causes of offending outside individual risk factors (France & Homel 2006: 295). To France

and Homel (2006), the concept of turning points need to be further developed to understand both developmental and social influences that facilitate desistence. Two concepts in the pathways perspective are 'developmental pathways' and 'societal access routes' (France & Homel 2006: 295). A developmental pathway is the chain of events and experiences over time that change an individual's situation. Societal access routes focus on favourable social opportunities that reduce offending. In this theory, offending occurs when favourable developmental and societal factors are absent. Desistence occurs when positive access routes become available. From its development, the pathways perspective has had positive academic and government attention (Homel, Freiberg, Branch & Le: 2015; Bottrell, Armstrong & France: 2010; Freiberg, Homel & Lamb: 2007). Pathways research is now influential in designing youth offender programs at the grass roots level that involve local councils, businesses and with community support (France, Freiberg & Homel: 2013).

Intervention programs based on the pathways perspective are developed with assistance from social and community workers who aim to transition young people and their families into independence (France, Freiberg & Homel: 2010). The reason why the pathways perspective is thought to work well is because the concept of risk has been removed from the individual and has instead been transferred to social institutions (France, Freiberg & Homel: 2010). For example, in developmental criminology, risk factors suppose criminality is the result of individual circumstances. However, a pathways perspective identifies the failures of schools, councils and government agencies to be the problem, as they have failed to provide early intervention support for at-risk youth who have

subsequently gravitated to the justice system (Homel: 1999 & 2005). Practically, a pathways program increases support by incorporating pathways that involve schools, parents, extended family, neighbours, friends, police, community services, media, business owners; and government and non-government organisations (Cunneen & White 2007: 321).

But, this theory is not without criticism. For example, there are notable problems in developing pathway programs due to a lack of responsibility by local governance and from an emphasis on referrals by social workers (France, Freiberg & Homel: 2010: 18-19). But even with these problems, the pathway perspective is a practical way to work with at-risk youth by reducing social disadvantage by connecting youth to their local community and by promoting the social recognition of young people, which is also the core concept of Barry's (2007) social recognition model (SRM).

Utilising Moffit's (1993) general taxonomy of offending, Barry (2007) argues that further explanations are needed to understand adolescent limited offending. Barry was influenced by the concept that adolescent limited offending was short-term. In her theory, Barry argues that youth desist from offending because of development into adulthood. In contrast to other developmental theories (such as Gottfredson & Hirschi: 1990 general theory of crime), Barry (2007) emphasises the acquisition of capital to explain the onset and desistence in offending. This is because, youth who actively seek and acquire recognition when transitioning into adulthood will most likely desist from offending. Barry (2016) has since continued to develop her original 2007 theory, in which she added how

to improve youth justice policy by increasing the basic needs for disadvantaged youth to gain equal opportunities. This contemporary example from Barry (2016) demonstrates how youth justice needs to target structural and socio-economic policies to change individual trajectories. Therefore, a lack of community (and government) support increases youth to find their own subjective means to desist from current offending lifestyles. An individual method that has been researched by Maruna and Roy (2007) is through cutting ties with peer networks. This concept is known as 'knifing off'.

'Knifing off' is a term used to describe how people cut ties with one's previous peer group (Maruna & Roy: 2007). To Laub and Sampson (2001), knifing off is a turning point and a ritual to break away from one's past. In this view, a young offender who suddenly desists from crime has experienced an individual shift in thinking about current circumstances without any moral obligation to their previous peer group. But this sudden transition can occur in a number of ways. For example, knifing off occurs when an individual changes geographical location, commences new employment or education (Elder: 2008). But unlike other desistance theories, knifing off is viewed to symbolically impact on long-term behavioural change, which is also associated with peer victimisation (Maruna & Roy: 2007). This is why knifing off is considered to be an individual experience of desistance, rather than a symbolic change or a structural turning point. This is because sudden desistance emphasises a lack of social support.

For example, knifing off and the transition that follows have been identified to contribute to social isolation. In an Australian study, Lenton et al (2015) findings

show that drug users who attempt to break away from their peer network in order to stop using drugs become socially isolated. For this reason, the difficulties associated with desistance from drug use are amplified by social isolation. These findings show that a practical challenge of desistance is to overcome the experience of anomie (a state of normlessness), which occurs when previous values and normative behaviours change suddenly (Marks 1974: 331-332). To Flannery, Singer and Wester (2001), times of anomie have been linked to higher rates of suicide amongst at-risk youth. This is one reason why desistance theories demonstrate the need for additional assistance by governments to resource community services for young offenders.

But desistance research is at times complicated, as it has definitional and practical problems. To Laub and Sampson (2001), identifying when desistance actually occurs and for how long remains problematic when analysing findings. For example, definitional problems between the concepts of temporary and permanent desistance are not often cited in studies (Laub & Sampson: 2003a; Piquero: 2004). This is because desistance is viewed as a gradual process and not something that simply stops at a particular moment, as it is practically difficult to navigate away from previous peer networks and then re-establish a new identity through education, employment and housing (Maruna & Roy: 2007). But in a less optimistic view, Farrington and Wikstrom (1994) believe desistance realistically only occurs at death. In their view, offending never stops, but is instead managed differently over the life course. But even with these limitations, criminologists such as Kazemian (2007: 18-19) still believe desistance theories are useful and need further academic attention, as the problem of life course offenders can

simply reflect the absence of favourable turning points, or the absence of societal access routes to a better life.

The study of desistence is important to understand both criminological research and youth justice intervention. This is because desistence theory guides the practical case management and intervention of at-risk youth. Though individual explanations of offending will remain to be the dominant tool within youth justice intervention, the ability to create social pathways out of crime through government intervention has additional benefits to facilitate non-offending lifestyles by building partnerships in the community that lead to skill acquisition and employment. This belief is similarly held within critical criminology that views social inequality to be the root cause of offending. To continue this debate, the following section will selectively review structural theories of the construction of youth crime and criminality. These theories explain offending to occur from institutional bias, class inequality and poverty. The review will critique both developmental and risk theories, demonstrating the role of governance in the creation and maintenance of youth crime.

2.5 Critiquing Individual Theories of Crime

In the underclass strata, crime has more of a survival component and plays a greater part in basic economic subsistence. Typical crimes include theft, burglary, selling stolen goods, prostitution, and drug dealing (White & van der Velden 1995: 4).

Structural theories of crime are in contradiction of individual theories that make individuals deficient to the non-offender (see Lombroso: 1911). Structural explanations view society, capitalism, social processes and institutions to be the root causes of crime, which victimising particular groups more readily through institutional practices (see White: 1993; MacDonald: 1997). To Muncie, this is achieved by the legal and political system favouring elitist objectives, which in turn influence public opinion (2010: 148). Justice institutions are therefore constructed on the idea that the poor are individually responsible for their actions, as they have failed to become middle-class (Unnever & Cullen: 2009).

These selective views are a part of a wider body of literature that aims to show how the justice system (and society) is biased, favouring those with resources, over those with few. In context to this study, youth justice has become more punitive even with the rise of welfare and restorative philosophies (Morgan: 2010). Criminologists have explained these rises in State control to reflect a new era of punitiveness (Christie: 2004). Out of these debates, the most noteworthy theory is Garland's (2001) 'culture of control', which discusses how the criminal justice system has been influenced by political and policy contexts with little change to institutional structures. This simply means criminal justice initiatives, (even though perceived to be based on welfare or restorative values) are actually more punitive, which is because policies are now based on risk management and control. As a result, offenders are more likely to be managed in clusters and categorised and monitored for longer periods of time. It also neglects how offenders may have been victims themselves.

To Garland (2001: 194), the concept of risk is now a significant tool to understand how offenders are managed and why risk is a part of any discussion regarding late modernity. For example, risk is now used in youth justice to determine the eligibility of a young person to a community conference. But as crime control has extended past criminal acts to include spatial controls, situational controls, managerial controls, system controls, social and self controls; young people are now subject to longer and erroneous bail and sentencing conditions (Garland 2001: 194). These changes have affected the way youth may be formally brought into the youth justice system for non-criminal behaviour. This belief is also shared by O'Malley, who views governments to use the concept of risk as a central technique to control all aspects of society (2008: 55).

In another view, Pratt (2008) uses the concept of risk to explain the rise in the prison population and how governments enforce social control. Pratt describes this shift as 'penal populism', which explains the rise of prison populations in the 1990s as a consequence of governments losing elements of existing State power. Pratt asserts the rise in penal populism was reactive to a range of post war factors, such as the growing ontological and personal insecurity of individuals, the rise in globalisation, greater media control over governments and the rise in technology (2008: 269-272). The rise in imprisonment and law enforcement is therefore a reaction of governments to regain control over the population.

Whereas, Hogg (2008: 281) believes the rise in punitive policies is not a reaction to the loss of power, but instead a loss of liberal democratic values. In his view,

governments are now giving longer sentences and outsourcing probation services to the private and non-government sector, which do little to address the causes of offending. This example has also recently occurred in the U.K., with the Home Office announcing the outsourcing of probation services for low-risk offenders (*BBC*: 2013). These policies reflect Hogg's (2008) view that governments are taking less responsibility to rehabilitate offenders and subsequently promoting the ideology that crime is an individual issue.

In another view, O'Malley (1999) believes that current penal policies need to be understood in a single political rationale, which he refers to as the 'new right'. To O'Malley, current penal policies are the result of the combination of both neo-liberal and neo-conservative policy co-existing simultaneously. These characteristics reflect current trends since the 1980s in policing, sentencing, penal practice that have seen the growth of the privatisation and outsourcing of criminal justice services (O'Malley 2008: 57). For example, Gray and Salole (2006) researched how young offenders are simultaneously case managed under the contexts of discipline, punishment, enterprise and reintegration. Their findings show how boys in detention are told to obey rules in one instance, but be active in their case management in another. This research validates how youth justice policy is contradictory, having dual policies that are based on individual responsibility and institutional practices (Yoder et al: 2014).

In summary, the concept of risk is explained in a number of ways as to why and how governments have increased their use of punishment, further explaining the impact of neo-liberalism on youth justice intervention. To Travers (2010a: 110),

these debates are relevant to criminological research, as there is an increased punitive approach towards youth through the use of welfare-disguised initiatives and forced participation. Current practices are viewed to not address the causes of offending and instead waste resources in youth justice on low level offending, instead of youth engaged in serious crimes. Youth justice therefore hides its punitive approach by promoting lower rates of crime and detention of young people, while extending bail conditions and using diversionary programs as mechanisms of social control (Lawrance & Hemmens: 2008: 493).

To Cunneen (2008: 297), the rise in restorative diversions for youth have led to illegal practices in policing. For Cunneen, young offenders are often coerced to make an early plea of guilt at the police station and often without legal representation. But as claimed by Hannah-Moffat and Maurrutto (2012: 203), an early plea of guilt can extend time on bail, which leads to further bail conditions. This is how punishment has transformed and social control has increased with the introduction of diversionary programs (Jones & Creaney: 2015).

Furthermore, through the introduction of new diversions, governments have made changes to youth justice policies that have allowed NGOs and the private sector to deliver diversionary services (O'Malley: 2008). In these instances, relationships between the community sector and justice agencies blur traditional boundaries of welfare, punishment and the concept of 'voluntary' participation (Blagg: 1998; Daly et al: 2013).

These changes also have implications for diversionary processes and specifically restorative conferencing. For example, Cunningham (2007) shows how high

numbers of youth with low level offences are still being diverted to conferences. In her study, the NT police diverted 3,597 juveniles over five years to conferences (which is a high statistic). This occurred through policies that allowed the police to formally sanction low-level offenders rather than using traditional informal cautioning. The high number of youth in this case, challenges the perception that formal diversions under the guise of Restorative Justice have positively impacted on the youth justice system. But in reality, poor governance is to blame for not providing additional referral options and training for police.

Consequently, diversionary programs identifying to be in the interest of youth can be punitive, due to structural policies targeting disadvantaged groups (Roberts & Indermaur: 2006). This concept identifies how the legal system can be analysed by adopting a Marxist perspective of crime. But, Marxism has been argued to be out-dated and surpassed by other contemporary theories, such as left realism, post modernism and now developmental criminology (White 2008: 31). However, I will demonstrate how Marxism is still relevant in understanding the relationship between social inequality and youth crime. This selective review will assist in later analysis of research findings from practitioners to identify their understanding of youth offending and how they work with young offenders.

2.6 The Relevance of Critical and Marxist Theory

Critical theories in criminology explain the tensions between the powerful and the disadvantaged (White, Haines & Asquith 2012: 119-22). In this view, the legal system is based on the values of the social elite and predominately

processes crimes of the poor (see Young: 1999). This perspective explains why youth from disadvantaged backgrounds are over represented in the youth justice system (Jacobson et al: 2010; McAra & McVie: 2005). A critical analysis is therefore interested in how crime is constructed through institutional practices (see Splitzer: 1975; White: 1994b).

The criminalisation of disadvantaged groups occurs at many levels in the justice system, from the way definitions of crime are constructed, to how the legal system favours those with resources over those with few (White & Van der Velden: 1995; Lawrence & Hemmens 2008: 492). For example, government responses to street crime (such as mugging) neglect socio economic and political failings. Individual constructs of crime also divert attention away from structural reforms and the social problem of class and poverty, while justifying stronger punitive laws (Hall et al: 1978: 221).

This is why Marxist criminology is important, even though it has been argued to be out-dated due to the changes in the concept of crime (Steinhart: 1985). For example, the general problem with Marxist criminology is how it understands working class crime to be a construct of governments to criminalise the poor. This concept is problematic, as there are victims of crime in all social classes. To post modernists such as Foucault, Marxism is irrelevant to understand crime because the concept of class and State power no longer exist (Foucault: 1977 & 1980). Post modernists believe power exists independently across society and not to any one group, thus making capitalist class agendas and elitism obsolete.

But the concept of class and social inequality is important to criminology, as it forms the basis of critiquing government agendas.

Marxist criminology also explains the realities of working class crime and the problems for working class victims, such as in cases of domestic violence (Carrington: 1993; Hogg & Carrington: 2006). The concern for victims of crime led academics in the 1980s to establish the tradition known as 'left realism'. But left realism is not concerned with class, rather it is occupied with the responses to crime, one being the adequate resourcing of policing to meet the needs of victims (White, Haines & Asquith 2012: 199). For example, rural crime can be argued to be under-reported, as there are less police in rural areas. But these problems also identify a Marxist position of how police resources are unequally based in metropolitan areas for elitist interests, leaving remote regions with minimal support to deal with crime.

Other criminologists also believe the criminal justice system is geared to process the poor and protect the interest of social elites (Cohen: 1993; Russell: 1997 & 2002; Milovanoic: 2002). In these studies, certain crimes are not investigated because of how the concepts of crime are defined by the State. For example, political and white-collar crimes are difficult to prosecute, whereas street level crimes are relatively easy to prosecute (Russell: 2002; White 2008: 35). To Cunneen and White, these practices are supported by government agendas that actively marginalise youth in a number of ways by reducing their legitimate opportunities, lowering their standards of living and decrease their inability to participate in social consumption (2007: 117).

Government agendas also affect how youth transition from school to adulthood. To Agnew and Brezina, youth are believed to experience additional stress when transitioning from school to the workforce because they are expected to do this with only family support (2010: 108). This creates a situation where youth from privileged backgrounds find their transitions easier, as they have family resources and networks, leaving youth from poorer backgrounds to rely on their own problem solving abilities. Adding to this strain, youth are subject to less welfare payments than adults (see Australian Department of Human Services: 2016). But the cost of living for youth and adults are the same. To Cunneen and White, such policies have created financial strains that have forced people to live long term in poverty, which is coined the 'underclass' (2007: 135).

The underclass defines the group of people who are excluded from the labour market. The underclass is a useful concept to understand why disadvantaged young people make up the largest proportion of youth justice clients. For example, young offenders involved in child protection are more likely to have mental health issues, experienced trauma and live in poverty throughout their adult life (McElvaney & Tatlow-Golden: 2016). This correlation strengthens the argument that youth crime is not an individual problem, but is a result of government policies that do not reflect the interest of the poor. This is why the concept of 'class' is still relevant to understand how external pressures and institutional bias can promote offending lifestyles.

Even though the concept of youth identifies a transitional period in life, it still identifies that when youth leave school they more likely to experience high rates

of unemployment in this time (Farrington et al: 1986). For criminologists, unemployment maintains crime levels globally (DeKeseredy 2011: 3). But recent structural changes to job security have occurred since the 1990s (Grogger: 1998; Bradley & Devadason: 2008). In Australia, these changes have increased the use of casual employment, which has resulted in reduced job security and irregular income and no sick or annual leave entitlements (Burgess, Campbell & May: 2008; Polk & White: 1999: 287). In Southern Tasmania, the lack of employment for youth has recently impacted school leavers who have described the problem of unemployment to have increased levels of insecurity amongst their age group (*ABC News*: 2015). This experience has also been noted to occur in Canada (Côté & Bynner: 2008).

To Goodwin (2008), unemployment also contributes to inter-generational economic disadvantage. Inter-generational disadvantage has been found to contribute to offending lifestyles that involve parents teaching their children to steal from a young age (Lizotte et al: 2015). In such cases, crime is a construct of long-term poverty, which creates illegitimate means to acquire financial security such as drug dealing (see Bourgois: 1989).

But, the problem of poverty isn't limited to offending lifestyles. As discussed by Polk and White, the long-term effects of poverty also create unfavourable environments to plan important life decisions such as marriage, children and independent living (1999: 292). For criminologists, this is why the critique of class is necessary, as it explains how youth and youth culture has been the target of the criminal justice system (Muncie: 2000; Osborne, McCord & Higgins: 2016).

These views are also shared by Menard who states, “adolescents who are victimised, compared with their non-victimised counterparts, are more likely to become adult offenders, to develop drug abuse problems later in life, and to be diagnosed with a mental health problem in the future”. This statement reflects the long-term harm punitive intervention by the criminal justice system can do to youth from institutional bias (also see Chan: 1997). This is also why the problem of victimisation is more applicable to disadvantaged youth, as they lack resources, communication skills and pro social values (Chan 2008: 221; Snow & Powell: 2012).

Another common theme linking these trends is how police cultures can readily target and criminalise particular groups of people whilst maintaining the perception of law and order (McCulloch 2008: 209-212; Chan 2008: 218-221). For example, Tahamont et al (2015: 431) demonstrates how 12% (or 13, 769) of first time correctional inmates had 10 years involvement in the criminal justice system prior to their first time in prison. Institutional practices therefore create criminal lifestyles by blocking access to employment and other favourable pathways after convictions (Agnew & Brezina 2010: 104).

In other cases, youth have been targeted by the police because of negative public views on youth culture. For example, bad language and the use of public spaces have contributed to the criminalisation of youth (White: 2002; Cunneen & White 2008: 233; Travers 2012: 46-48). But swear words are not necessarily a criminal offence, especially when considering the use of language in hegemonic police culture (Prenzler: 1997). As well, police interpret central business districts to be

used primarily for commerce and not for youth to socialise (White 1994a: 104; Cunneen & White 2007: 224). Therefore, any behaviour that is deemed not in the interest of commerce can be viewed to be causing a nuisance.

As discussed by Allard (2010), police do not need to pursue youth with formal police diversions for public order offences. Referrals to diversion programs for minor public order offences are excessive, as police could instead simply move a young person on, or give an informal caution. This issue has been problematic for disadvantaged youth who may not be engaged in stable day programs, or are homeless. Homelessness particularly is viewed to increase victimisation through the public visibility of shopkeepers (Pain & Francis: 2004). The victimisation of the homeless by police has also been researched in Melbourne and Hobart; and describes the fear of young homeless people towards the police and the risks of violence they face sleeping rough (Jordan: 2012). These are some reasons why Hinds (2006), believes that police practices should be more respectful to youth in public spaces, as her research shows that youth are more likely to comply with police directions if police are respectful and raise legitimate concerns.

In summary, this section has discussed a range of debates in critical criminology that identify structural issues that contribute to the criminalisation of disadvantaged youth. These debates are important in the analysis of youth justice intervention to understand the multiple ways youth enter and remain in the youth justice system until 'aging out'. Therefore, youth justice intervention needs to include political advocacy a part of youth justice work. This view has also been cited in a number of studies that discuss the benefits of involving the

opinions of youth in political reforms (see Stacey: 2001; Nairn, Sligo & Freeman: 2006; Mears, Pickett & Mancini: 2015). The following section will discuss how youth justice intervention ought to occur. This will be reflected in chapter 7 of the thesis that will discuss practitioner views on improving the youth justice sector in Southern Tasmania.

2.7 Theorising Youth Justice Intervention

The fundamental focus for analysis and intervention needs to recognise the social and cultural context of developmental pathways, and emphasis needs to be on relations between levels of organisation in a child's or young person's developmental process (France, Freiberg & Homel 2010: 192).

Both individual and structural theories of offending add to understanding why and how youth enter and desist from offending. Some theories that have been discussed are currently influential in the way governments manage young offenders, specifically that of the benefits of early intervention (Farrington: 2012). The question of when to intervene in the lives of youth is an uncertain one; it is still justified on altruistic purposes for the child, the victim and family. Though I am not convinced life is pre-determined, Farrington (2010) does make a good point that there has been no other theory that adequately predicts future offending and that early intervention is at times warranted. On the other hand, criminologists such as Sampson and Laub (2003a & 2003b) and France and Homel (2006), believe the causes of offending should now receive less academic attention, as research has already established the correlations between abuse,

trauma and offending. Therefore, future research should be concerned with desistence research and pathways out of crime. This is why programs based on pathways theory is currently the most relevant approach for governments to base youth justice intervention on, as few other approaches is able to address the structural problems associated with poverty and social isolation. Practically, pathways approaches focus on skill development and community partnerships, all of which aim to improve the development of young people through the peak age of offending.

In conclusion, early intervention needs to be based on robust theory and needs to be able to meet the practical needs of young offenders. As demonstrated in this chapter, intervention in the lives of young people has and will continue to be more about social control until the neo-liberal beliefs of crime control are abandoned. This is because, youth justice strategies readily base intervention on reducing risk factors, opposed to advocating the consequences of social inequality and working with human needs. Issues relating to housing, poverty, generational offending, institutional bias and social inclusion all play a part in social strains that influence youth to offend. This is why youth justice intervention needs to develop programs that build on skill development and pathways into employment. The ability of the youth justice sector to achieve these goals is therefore an indicator to understand how early intervention is being practiced in Southern Tasmania. The following chapter will introduce the methods of this study and show how qualitative methodology led to findings that otherwise would not have been revealed.

Chapter 3

Methodology

This study is informed by qualitative research methods. The qualitative tradition is interested in researching the lived experiences of people to make sense of the social world (Geertz: 1973; Abercrombie, Hill & Turner 2006). In criminology, there is a growing interest in the value of qualitative research in researching criminal justice cultures, practices and occupational beliefs in their natural setting (Travers: 2012; Graham: 2014; Miller & Miller: 2015). Nevertheless, quantitative studies are favoured as scientific, because they reflect the dominant discourse of government research (Meuser & Löschper: 2002). Quantitative research describes the collection of data that is numerical or statistical in nature, which analyses numerical evidence to determine trends in social phenomena (White 2006: 175). ⁶ It is claimed that quantitative studies are more reliable than qualitative findings (Martin & Bridgmon 2012: 4; Neuman 2014: 211-214).

But quantitative methods have been demonstrated to lack the ability to investigate processes or capture emotion and meaning from participants (see Tilley: 2000; Hsieh & Shannon: 2005). For example, Goulding (2002: 13) argues that statistical research methods inhibit researchers from testing theories. Similarly, for Young (2004: 22), statistical findings need to be read with caution, due to the fact quantitative findings do not reflect the day-to-day life and the

⁶ The marginal position of qualitative research in criminology is evident in mainstream criminology journals in the USA that have had little interest in publishing qualitative studies (Travers: 2008: 390; Copes, Tewksbury & Sandberg: 2016).

natural setting of justice institutions. These lead into complex debates about methodology. This is a qualitative study, and I hope to demonstrate the value of interviewing as a method in this chapter and the second part of the thesis. The chapter will discuss my experiences in conducting research, my collection methods and ethical considerations I have adopted to protect participants.

3.1 The Researcher

Researchers adopt a particular outlook based on personal, professional, or more broadly, work related experiences (see Davidman: 1999). Life experiences without question shape our understanding of the social world and add unique and interesting debates to academic research (Ezzy 2002: 153; Gemert: 2015). Narratives from offenders, the police and other criminal justice practitioners express the importance of the “lived experiences of key actors” (Halsey 2010: 105). With no exception, I also aim to share my opinions and my lived experiences from my occupational background and as a budding criminologist. Though the influence of my background will not produce an auto-ethnographic account (see Jewkes: 2011).

My outlook in youth justice matters has been shaped by my experience working for nine years in a male youth crisis shelter and the wider mental health and housing sector. Within these roles, I have worked with hundreds of youth between the ages of 13 to 20 years of age in a one-worker model. Though rewarding, my employment put me at-risk due to the presenting factors of clients. I also regularly liaised with other services, including: Tasmania Police,

Youth Justice Services (YJS), Child Protective Services (CPS), Non-Government Organisations (NGOs), Mental Health Services (MHS) and Alcohol and Other Drug Services (AODS).

At times, all services mentioned might be simultaneously working with, or case managing the same client. From first hand experience, I saw how this model was problematic, as a young person could have several case managers, all of which have different directions for their case plan. As well, all services can easily fail the basic needs of a client due to the assumption other services are completing the task at hand. For example, it is common for youth to present in crisis accommodation with no wallet, no photo identification, no healthcare card, Medicare card or bankcard, but yet they are case managed by child protection, youth justice and other NGOs. This is one reason why employees in crisis accommodation require additional skills that extend past their primary role. Furthermore, clients often presented with un-diagnosed mental health issues, anti-social behaviour, inappropriate sexual behaviour, low problem solving abilities, low personal hygiene, long term truancy, lack of empathy, regular AOD use and high criminogenic needs.

These factors have formed my belief that youth crisis accommodation is working on the margins of the youth justice sector and is a high-risk job (see Wincup: 2002). This is due to the health risks associated with clients and the unpredictable and emotional state of clients who are on bail (see ABC: 2010; Anglicare Tasmania: 2013 & 2014). During this time, I also personally received phone calls from the youth court seeking to bail young offenders directly from

Ashley Youth Detention Centre (AYDC) into the shelter. From these experiences, my understanding of the structural issues facing at-risk youth has developed, as well as sustaining my interest to complete the PhD and develop my knowledge on crime and criminal justice. I also believe it to be important to re-establish the problem of social inequality and poverty as a topic of analysis within contemporary criminology and government reports (see White 2008: 30-41). This opinion is similarly shared by McLaughlin (2013) who believes the future direction of contemporary criminology should focus on the failings of the criminal justice system to treat, protect and live up to its own values. McLaughlin describes the failure of criminal justice in three points.

- It does not function by its own rationales of rehabilitation, deterrence or prevention.
- It fails to meet the basic needs of offenders and victims alike.
- It cannot control criminality, or protect victims from further victimisation.

(McLaughlin 2013: 164).

This view mirrors my own experiences from the community sector. For example, I consistently worked with clients from impoverished backgrounds, who presented with similar stories of neglect, victimisation and failures from the education, child protection and youth justice system. These shared experiences influenced clients to transform their state of mind into one of survival, which was amplified by homelessness, mental health issues and AOD use. But I do not wish to romanticise the harm crime causes victims. To do so would be nothing less than a failure to acknowledge reality. Instead, I aim to critically analyse current

practices in the youth justice sector based on the accounts of practitioners to demonstrate the wider implications of offending and the greater need to improve intervention and the rehabilitation of young offenders based on criminological theory and local issues.

Therefore, an additional aim of this study is to reveal how practitioners who work with young offenders have a task that can be considered to be at times 'hopeless', due to the limitations agencies have to deal with the causes of offending. I view these failures to be symbolic of neo-liberalism, which defines government agendas to minimise resources to the poor, individually make offenders responsible for their own rehabilitation and outsource services. Lastly, I will demonstrate through qualitative methods, the strengths of the professional perspective of how the youth justice sector can be improved.

3.2 Qualitative Methods in Criminology

Qualitative methods allow researchers to understand how professionals make sense of their work through interviewing and observations, which is often closed to outsiders (Noaks & Wincup 2004; Cooper: 2010). Qualitative research complements the analysis of official public records, private or non-official documents, media reports and the Internet (Deflem 2015: 66). Methods widely used in qualitative research are: ethnography, participant observation, unstructured and semi structured interviews, discourse analysis, case studies, historical and document analysis, oral histories, life stories and analysis of visual images (White 2006: 173; Ambercrombie, Hill & Turner 2006: 314, Gibson &

Brown 2009). For this study, I primarily used semi-structured interviews in a naturalist setting as the main method of data collection. The following sections will detail theoretical considerations that have guided the research.

3.2.1 Naturalism

Naturalism is the study of the social world from its undisturbed state (Miller & Miller 2015: 92; Goulding 2002: 79). To Hammersley and Atkinson (1995), qualitative research methods are understood in two distinct categories, positivism and naturalism. Positivism is based on scientific methods that test theories to be true or not and is characterised by the standardisation of procedures that guide data collection. To Rubin and Rubin (1995), positivist research lacks meaning by using standardised questions in structured interviews. To a naturalist, research should not interfere in the research setting, but should instead adopt an attitude of respect and a commitment to the phenomena and not to a specific research method (see Gray & Salole: 2006). This means, researchers need to utilise the best set of methods to the research topic and not the other way around.

As a naturalist, I conducted research in the work places of participants. Whilst interviewing, I was able to observe the day-to-day life of different agencies across the youth justice sector. I found that interviewees identified with different perspectives on how the youth justice system works, even though they shared the same clients. By conducting interviews in work places, I was able to neutralise the researcher/participant relationship, which allowed interviewees

to express their opinions through case studies. It also enabled me to gather documents that underpin youth justice work, though in turn, I became to realise during analysis that these forms were of little importance in understanding how practitioners conducted successful early intervention with offenders. Still the forms held some value in demonstrating the administration that underpins conference work. In short, interviewees were more at ease to share their narratives and provide me with additional information that was able to be later analysed using interpretivist analysis.

3.2.2 Interpretivist Analysis

In criminology, interpretivist analysis is a methodical approach that assists researchers to further analyse cultures and meanings that underpin positivist data (Goulding: 2002; Ezzy 2002: 7; Copes & Miller: 2015; Hansen 2006: 147). For interpretivist researchers, interviews reconstruct the lived experiences of youth justice professionals, demonstrating the day-to-day life in a criminal justice setting. The aim of this method is to capture an accurate and empathetic understanding of the often-undisclosed life and workings in criminal justice. Interpretivist analysis is also concerned with the way researchers interpret accounts (Denzin 1997: 92). By relying on the researcher to interpret findings, interpretivist analysis in criminology allows critical comparisons of criminal justice jurisdictions, types of crimes and conviction rates. For Travers (2008: 394), this is a key strength of interpretivist analysis in criminological research, because definitions of crime change across cultures and jurisdictions. By not understanding the differences in other legal institutions prior to comparing

crime data can in turn misrepresents levels of crime and the detailed descriptions of the criminal justice system (see Travers: 2007 & 2010a). This is one way interpretivist analysis is able to answer questions that quantitative positivist methods cannot.

3.2.3 Grounded Theory and Inductive Research

Grounded theory is a social science research method that generates theory after conducting research (Strauss & Corbin 1994: 282-283). To Chamberlain (2012: 31), grounded theory is based on how participants understand their day-to-day lives. Since it was first developed by Glaser and Strauss (1967), grounded theory has had continued positive academic attention in the social sciences (Charmaz: 2006; Kraska & Neuman 2008: 97). Still, grounded theory has also been criticised for not having a specific structure and that researchers are not be able to separate themselves from their literature review (Chamberlain 2012: 33-34).

To minimise these concerns, I adopted Silverman's three-stage process of how to conduct grounded research (2000: 144). To Silverman, the first step for a researcher is to develop categories from the research findings. Secondly, the researcher has to saturate the categories with as many examples as possible. Thirdly, the researcher must develop the categories further into analytical structures, which are detached from the original setting. This method shows why the use of field notes is important in conducting grounded theory; and why researchers need to collect additional notes to assist in saturating research findings into categories for later analysis (Willis 2010: 423).

The key strength of grounded theory is its ability to extend the research process beyond hypothesis testing (Chamberlain 2012: 33). Hypothesis testing is defined through deductive reasoning, which seeks to predict findings on a pre-determined theory (Ezzy 2002: 7-8). For example, deductive research in criminology relevant to this study is the Social Control Theory (SCT) by Hirschi (1969). The SCT tests the presumption that offending is correlated to weak social bonds. To Hirschi (1969: 16), bonds that inhibit offending are related to family, commitment to social norms and institutions and involvement in social activities. But to Hirschi (1969), the SCT predicts findings as either true or false, which neglects further analysis outside the hypothesis. This shows the benefits of using grounded theory to further analyse research findings by using inductive and not deductive research methods.

In contrast to this method, inductive research separates theory from the collected data (Ezzy 2002: 10-11). To draw on one researcher's experience in undertaking inductive research, Orona states, "I literally sat for days on end with transcribed interviews spread out in front of me, absorbing them into my consciousness and letting them float about...I let the data talk to me" (1990: 1249). This statement is a good reflection of how the process of data analysis should develop meaningfully into theory, which was helpful to my understand of how to conduct my own research. As a result, I also continued to go over my interview transcriptions time and time again to further question how my findings ought to be interpreted.

3.2.4 Interviewing

Qualitative interviewing provides the researcher with information that is later analysed (Gibson & Brown 2009: 86). Interviews vary from one participant to the next, due to the skills of the researcher (Berg 2007: 89), as well as the interviewee (Copes et al: 2015). Practically, there are no set rules about how many questions ought to be asked in an interview, or how many interviews are enough in any particular study (Travers 2010b: 294). Instead, research theories guide how researchers understand their role within the interview process (Kincheloe & McLaren: 1994). For example, interviews are believed to rely on performances by both the researcher and participants, which is coined 'dramaturgy' (Berg 2007: 91). This concept is reflective of how qualitative researchers strive to produce quality knowledge through interviewing. As discussed by Travers (2010b), conducting qualitative research is not about how many interviews are conducted, but the quality of the research that it creates.

Another aspect of interviews is how the abilities of the researcher are often overlooked to guide the interview (Rubin & Rubin: 1995). Researcher control is an important aspect that separates qualitative interviews from normal conversations. This is because researchers need to guide interview topics, so the interviewee can reflect and answer questions in detail. For example, Seidman (1998) outlines the importance in establishing equity when interviewing. Interviewers need be aware of matters regarding race, ethnicity, gender, linguistic differences, age, class, hierarchy and status. As these subjects influence the power relations when conducting interviews. This discourse is inherent in

the critical tradition, as class, hierarchy and status can all be problematic when establishing rapport with interviewees (Ezzy 2002: 75). For example, the problem of class is seen to occur regularly in criminology, due to researchers being university trained and offenders being lower in status (Seidman 1998: 87). Therefore, critical awareness in preparing for interviews is important, as not acknowledging these aspects may impact on interviewee rapport, which can also suppress narratives.

Another issue in preparing for interviews is how to structure topics to get the best results from interviewees. According to Rubin and Rubin (1995), interviews can be structured, semi-structured and un-structured. In un-structured interviews, the researcher introduces a topic for discussion with few questions. The point of un-structured interviews is to allow the interviewee to talk about in length about the topic. Semi-structured interviews are more planned and directed with the researcher introducing a topic for discussion and then guides the interview by asking specific questions. Structured interviews are defined by set-sequential questions. Choosing what interview method is best, depends on what data collection methods are chosen.

For example, Barnett et al (2015) researched 20 incarcerated youth using in-depth interviews. By using interviewing as a research method, Barnett et al (2015) found that participants had similar chaotic experiences of trauma and neglect from their families, friends and communities, which contributed to their offending. All youth in the study shared opinions of wanting to be loved and have positive attention and discipline from their family. These findings were

reinforced when participants were released and continued to offend. These findings would not have been discovered from data collection based on police statistics as the lived experiences of youth created a discourse identifying family environment and not individual traits as the cause of offending.

For similar reasons, I thought it best to adopt in-depth interviews for this study. I therefore adopted Seidman's (1998: 11-13) three-stage approach to interviewing as a practical guide. This assisted me to ask questions in a way that would produce deeper answers. For example, I was informed not to ask questions such as 'why did you become'? Instead, Seidman (1998) asserts interviewers should ask 'how did you find yourself'? By re-phrasing the question from 'why' to 'how', Seidman (1998) believes interviewees will better reconstruct life events from their family, education and employment. But due to the unavailability of participants, I re-evaluated Seidman's (1998) method to instead occur in one and not three interviews. This decision was justified by the problem of potentially losing access to 90% of participants after the first interview. Reflecting on this decision, I believe I was correct, as I was still successful in gaining meaningful narratives and descriptive accounts. But even with this small success, I still experienced ethical hurdles in conducting the research.

3.3 Ethical Considerations

Ethics protects the rights of individuals, communities, environments and promotes just and proper conduct (see Mertens 2014: 510; Goode 2015: 49;

Israel & Hay 2005: 500; Hansen 2006: 30-43). The ethics committee members can be identified to be gatekeepers in a negative sense, especially in criminology (Graham 2011: 103). However, few criminologists have written about their journey through gaining ethics approval, their concerns regarding what constitute ethical conduct and the context in which ethics are regulated (Israel & Hay 2005: 500; Copes, Tewksbury & Sandberg: 2016). For example, Goode outlines a number of unacceptable practices in qualitative research (2015: 50 & 52-57). He specifically refers to Laud Humphreys' Tearoom Trade study as an example of questionable ethical conduct in qualitative research. Though disputed by Tewksbury (2004), Goode (2015) believes an ethical injustice had incurred to allow Laud Humphreys to graduate after he broke codes of ethical conduct. Though outside the discourse of criminology, this example still reflects the ethics of the social sciences that criminology exists in. With this in mind, ethics strictly governs all contemporary academic research and therefore must be followed by all researchers of all disciplines.

Similar to this review, the planning of this study was guided by a rigorous ethics process under the approval of the University of Tasmania Human Research Ethics Committee (HREC). Ethical considerations to my topic included researching appropriate practices and procedures of the research group and to maintaining participant confidentiality and consent. The issue of consent is still a significant concern in the social sciences and specifically criminology (Brunson & Pegram: 2015). This phenomenon is no different to my experience in gaining consent from the HREC, which was problematic. This was because I was originally planning to research young offenders. This form of research has been

identified to be ethically challenging (Maanen: 2003; Roberts & Indermaur: 2003; Punch 1994: 86), but is believed to improve youth justice systems (see Brunson & Pegram (2015). I was also subtly warned early in the process that ethics approval to research vulnerable populations would not be approved this concern was based on previous local experiences of academics at UTAS (see Graham 2011: 95).

From this experience, I still clearly understand the ethics committee is protecting the wellbeing of participants (Hansen: 2006). But I do not believe any involvement from myself as a researcher, (or as an observer) would have had any long lasting impact on participants who would have also needed to voluntarily participate. Subsequently, the concerns from the ethics committee suggest (to some extent) that as a criminologist, I am unethical, or incapable of conducting research without causing harm. Subsequently, I was given permission to research youth justice professionals, provided I did not make contact with under 18 year olds. This also assisted with gaining quicker approval with a minimal risk ethics application.

A part of the ethics process, I was required to gain informed consent and protect participant confidentiality. These two concepts underpin reasons of ethics approval in social research (Israel & Hay 2005: 501-502). Informed consent occurs when the participant agrees to the study prior to research commencing (Israel & Hay 2005: 502). For this to occur, researchers need to provide participants with an information sheet regarding the purpose of research, methods used, potential risks, projected outcomes, benefits and how the

projected is funded (Israel & Hay 2005: 502). Participants must be informed they have a right to withdraw and that participation is voluntary (Seidman 1998: 53; Ezzy 2002: 75). But gaining consent can also be difficult.

According to Israel (2004: viii, 38), it is difficult to gain ethical consent for the young and other vulnerable populations. In these cases, strict consent must be obtained from parents and that research must be beneficial to the health and wellbeing of the young person (The National Statement 4.1 as cited in Israel 2004: 38). However, parental consent would be an issue in the case of youth justice, as parents may not accompany youth to conferences, or to the police station. As well, young people in youth justice are considered to be at-risk, homeless, truant or be living chaotic lifestyles. Therefore, parental control may be low, or the young person may be a ward of the State.

It is also assumed that significant proportions of youth who are engaged with the courts have experienced family relationship breakdown, or have experienced interpersonal conflicts with their parents. This conflict may be the reason why young people do not feel comfortable with their parents having control in their decision to participate in research, specifically if they are 17 years old. Also, youth may not want to request consent from their parents or guardians, as the research may reveal their offending behaviour. This is how confidentiality can be problematic in researching the youth justice sector.

Confidentiality refers to a negotiation of consent between the researcher and the participant (Lahman et al 2015: 450). Usually, the participant will only consent if

they cannot be linked to the data in publication (Israel & Hay 2005: 503). In most cases, confidentiality for researchers and participants will be without issue. The terms of confidentiality are often outlined in an information letter, or by verbally explaining the information prior to conducting the research (Israel & Hay 2005: 503).

In other cases, confidentiality is a complex issue. This is due to research taking place in often unpredictable and challenging environments. In these cases, the terms of confidentiality need to be re-affirmed during the field research. This is because confidentiality cannot be absolute (such as in event of uncovering a gross injustice) (Israel & Hay 2005: 504). Therefore, to deal with the majority of concerns surrounding confidentiality and participant confidence, social researchers have developed a range of methodical approaches to assist keeping and maintaining participant confidentiality and anonymity. For example, to Merton (2014) and Ezzy (2002: 156), these methods include: not to record names, remove names and identifying information at earliest convenience, disguising names of the community, masking or altering data, covertly sending files out of the jurisdiction and avoiding using mail and telephone systems to reduce the risk of data being intercepted or seized.

These recommendations are relevant to my study, due to the small youth justice sector in Southern Tasmania. Particular events and comments in case studies can easily identify interviewees. Amongst this group, I changed names, locations, sex, location and other identifying characteristics within narratives to keep identities disclosed and unrecognisable. By adopting these methods, I believe I have

protected the anonymity of participants to the best of my ability. By following an ethically informed approach, I believe I have reasonably minimised potential risks and maintained the anonymity of research participants. The following section will discuss how I acquired research participants, which occurred through local knowledge from myself, my research team and through snowball sampling.

3.4 Participants

The process of identifying participants is important in qualitative research methods to maintain research validity (Rapley: 2014; Berg 2007: 394). In this study, participant selection came from three sources: my knowledge from working in the community sector, academic staff at the University of Tasmania and snowball sampling from interviewees (Brown: 2005). From these sources, I was able to acquire the written consent and subsequent interviews of 21 participants. The exception to the ideal sample group was the inability to gain access to the Department of Education. All other identified key stakeholders were willing to assist in the research.

The 21 participants represent a good cross-section of youth justice professionals in Southern Tasmania. 11 participants were male and 10 were female. Their experience working with young people ranged from 40-year careers, to a few participants recently entering into the sector. Though not formally noted, most participants were above the age of 30 and with two participants being in their late 20's. For anonymity purposes, participants were identified to either be

frontline workers or management. In some cases, participants held multiple positions, which required both managerial and frontline work. Positions were therefore identified by their employment title. Consequently, some participants who attend conferencing may do so in an administrative role and so would not be considered to be a frontline worker. The following section will detail the services that agreed to participate in the study.

3.4.1 Facilitators

Three contracted facilitators operate in Southern Tasmania. Two facilitators are partners in JLD Restorative Practices. The third facilitator is an independent contractor recruited by the Department of Youth Justice. All community conference facilitators and authorised police officers in Tasmania must have received training by JLD, which normally occurs in a two-day workshop. Facilitators are employed on their relevant work experience, ability to engage with young offenders, victims, families, key stakeholders and their knowledge of the youth justice system. All three facilitators agreed to participate.

3.4.2 Tasmania Police / Early Intervention Unit

Tasmania Police are a key stakeholder in providing information on early youth justice intervention in Southern Tasmania. Access to Tasmania Police was achieved through the Tasmanian Institute of Law Enforcement Studies (TILES) at the University of Tasmania. I was required to complete a TILES application for approval to conduct research. The application was approved and a letter from Tasmania Police was provided and attached to all email correspondence with the

research information sheet, interview guide and consent form.

Access to Tasmania police was largely due to the co-operation of a senior police sergeant who identified and encouraged specific police personnel to participate.

No directive from Tasmania Police was given to any police participants.

Participation occurred by the willingness of individual police personnel.

Contacting police participants was primarily done through email, due to the nature of police not having access to dedicated phones when conducting outreach work. Police who agreed to be involved in the research were interviewed at their place of work, which was either at a police station, or a PCYC. In all, six Tasmanian police were interviewed.

3.4.3 Department of Youth Justice

The Department of Youth Justice oversees the management of young offenders in the community, detention and through the youth court. Contact with the Department of Youth Justice was initially made by phone to identify a team leader, or regional manager. This was thought to be the best approach to establish initial rapport and to identify an email address to forward research information. After sending the email request, a manager identified appropriate staff and my email and relevant research documents were forwarded to participants. Initially, I was only able to arrange two appointments. However, once I was in the building, I was able to seek further expressions of interest from staff. In total, I interviewed six participants from Youth Justice (South).

3.4.4 Department of Child Protection

The Department of Child Protection often co-case manage young offenders who are on care and protection orders. Acquiring appropriate contact information in child protection services was more difficult than youth justice. I was unable to find contact details for the team leader or regional manager through the DHHS website. After some failed attempts, I called the 'Service Tasmania' call centre. The operator informed me the government web directory was out of date and it was up to individual government staff to update their own information. I was then transferred to the reception at Child Protection (South) and was given the email address of the southern regional managers. From there, I was able to send an introductory email explaining my research with attached information sheet, consent form and interview guide. The research topic was warmly received and my email was forwarded to staff. However, after a couple of weeks, I only received one expression of interest from one staff member. However, once there, I gained one other participant. Overall, I interviewed two participants in child protection.

3.4.5 Save The Children

Save the Children (STC) is an NGO that is currently contracted by the Tasmanian Government to work with young offenders. STC was identified to me through snowball sampling (Tranter 2010: 138). I was previously aware of their role working with young offenders through my employment in the community sector. I was informed by a number of participants that their contribution to the research would be significant. Contact to STC was made through email and then

by phone. Making contact and arranging access was quick and all relevant staff members were willing to participate. Interviews were conducted at the STC Hobart office in a dedicated interview room and one staff member was interviewed at a PCYC. Overall, four STC staff participated in the research.

Table 3.1: Summary of Participants

Gender	Role	Years experience	Qualifications	Employer
Male	Frontline	40+	Defence Force & Police Academy	Government
Male	Frontline	40+	Social Worker	Government
Male	Management	25+	Police Academy	Government
Female	Frontline	15+	Police Academy	Government
Male	Frontline	20+	Police Academy	Government
Female	Frontline	10+	Police Academy	Government
Female	Frontline	5+	Police Academy	Government
Male	Frontline	17+	Police Academy	Government
Female	Frontline	20+	BA-Arts, Social Worker & Postgrad - Criminology	Government
Male	Frontline	10+	BA-Arts, Social Worker & Masters - Criminology	Government
Female	Frontline	20+	BA-Arts	Government
Male	Frontline	3+	Diploma-Case Management	Government
Female	Management	10+	Postgrad - Psychology	Government
Female	Management	20+	BA-Arts	Government
Female	Frontline	5+	BA-Law	Government
Male	Frontline	25+	Engineering & Police Academy	Government
Male	Management	10+	Masters-Social Research	Non-Government
Female	Frontline	12+	Not disclosed	Non-Government
Male	Frontline	18+	Diploma	Non-Government
Female	Management	15+	Not disclosed	Government
Male	Frontline	5+	BA-Arts	Non-Government

3.5 The Process of Criminological Research

Participants were emailed an information sheet, consent form and an outline of the interview topics. When requested, a complete interview guide was attached. In the beginning, I added the question sheet to emails. But this practice inadvertently inhibited the natural flow of interviews, as some participants appeared to have pre-arranged answers that they were trying to remember. As a result, I was apprehensive in forwarding the interview guide with the contact email prior to interviews. Instead, only the outline of the interview guide was sent (which was detailed in the information sheet). The development of the interview questions was an on going process, which will now be discussed.

3.5.1 Developing Interview Questions

Research questions were developed from a literature review on youth offending, desistence, qualitative theory, Restorative Justice and conferencing. The aim of forming the questions was to gather information specific to Southern Tasmania on current trends and issues in community conferencing and how youth justice work with young offenders. Other areas of interest were to understand the professional views on early intervention, the nature of youth offending in Southern Tasmania and solutions to youth offending. Therefore, an important aspect of interviewing professionals was to learn their cultural understanding through narratives and case studies (see Travers: 2001; Heckenburg: 2011). In nearly all cases, participants shared de-identified case studies of clients that conceptualised the nature of their day-to-day work and the context of youth offending in Southern Tasmania. Interview questions were developed knowing

that case studies would be of most importance for analysis (Stake: 1994). This is because requesting case studies imply the need for first hand accounts. In nearly all cases, de-identified case studies were explained to be from direct casework with clients.

3.5.2 Interviewing Participants

The University of Tasmania School of Social Sciences provided a recording device for interviews, which was accessible in short time frames. This was important as interviews were often arranged at short notice. Interviews were conducted at the availability of participants in one sitting. The common explanation for this trend was due to participants demanding workloads. However, participation in the interviews also appeared to be viewed as extra work. Consequently, I made it a priority to meet with participants at their convenience and in the time frames that were available to them. This placed added pressure on me as the interviewer, as I realistically had only one opportunity of capturing their information.

With few exceptions, most interviews were planned for an hour. But I soon discovered this time period would limit participation rates, as I was informed the time was too long. I therefore gave options for 30-minute interviews. However, even when concerns were raised regarding this new time frame, most interviews went over 30 minutes. I found once I was able to meet participants and explained I was interested in their views and experiences, the interview became more fluid and participants were happy to extend interview time frames to share their

stories. After completing each interview, all participants (except one) had something to add prior to the interview ending, which demonstrated the passion participants had for their job.

During interviews, I was able to access relevant documents to highlight the work involved in delivering conferencing and the case management of young offenders in Southern Tasmania. I also had access to de-identified cases files that highlighted the nature of community policing, youth justice, NGO and restorative work. In all cases, names, dates, ages and locations were removed to protect anonymity (Berg 2007: 79-80). At no point, personal information provided could lead to identifying a young person under the age of 18.

3.5.3 Transcribing Interviews

During the transcription process, I listened to the recordings multiple times and subsequently transcribed each one. It was discovered that most 30-minute interviews were approximately 8,000 words. This process was time consuming, but also significantly beneficial to identify the main themes across participants. By personally transcribing interviews, the process enabled me to reflect on my interview skills, whilst absorbing and commencing analysis (Maeder 2014: 424; Neuman 2014: 477).

After transcribing, I initially planned to manually colour coordinate several themes to reflect upon and discuss with my supervisory team. But, as the word count was quite large (over 150,000 words), I made arrangements through the

School of Social Sciences to have NVivo software installed on my computer to assist managing the volume of transcripts. The staff at the University of Tasmania library assisted me with resources to learn how to use the software. The use of computer-aided analysis has been positively reported in benefiting coding themes (Hansen 2006: 145).

3.5.4 Research Analysis

The NVivo software assisted me in the process of thematic analysis. To Gibson and Brown, “thematic analysis refers to the process of analysing data according to commonalities, relationships and differences across a data set. The word ‘thematic’ refers to the aim of searching for aggregated themes within data” (2009: 127). This is how NVivo software made the job of grouping themes for later analysis easier than what I would have done manually using colour groups. Specifically, the software allowed me to run searches on specific words that can be grouped and later viewed. This was particularly useful when I discovered new themes after writing initial draft chapters. The most common themes resulting from field research were:

- How youth justice works in Tasmania
- How youth justice professionals work with offenders
- How community conferences work
- Improving youth justice

By exploring these topics, I will demonstrate how qualitative research is suitable

in studying criminal justice. I argue the professional perspective is useful for the study of criminology and governments to further understand the how youth justice operates passed statistical accounts. By conducting this research, I aim to show how qualitative research methods can positively influence government policy and resources as described by Neuman (2014: 513).

3.6 Studying Youth Justice Professionals

The study will identify how the youth justice sector is working with young offenders in Southern Tasmania and in doing so, the benefits of using the 'occupational perspective' in studying criminal justice settings. But a limitation of the study was that I was not able to conduct a workplace ethnography.

Ethnographies are believed to be the gold standard in qualitative research (Hammersley & Atkinson: 1995), as this method enables a researcher to immerse him or herself by observing the actions of participants in their natural setting, as well as obtaining viewpoints (see Travers: 2012 in this chapter). Still, interviewing provided an excellent alternative method. It provided rich information without the difficulties of gaining access to closed criminal justice settings. Interviewing professionals in the sector also enabled me to access other materials such as documentation and case studies (see Appendix 2 & 3). But the collection of work related forms in this instance did not assist in the analysis of the findings. This is because the forms were not of interest to interviewees, neither did it appear to influence how practitioners worked with clients, making them irrelevant. In conclusion, all reasonable steps have been taken to ensure that the data used for analysis has been acquired through best possible

standards in qualitative research and in line with ethical standards set by the HREC at the University of Tasmania.

Chapter 4

Youth Justice in Tasmania

Interviewee: There is a frustration throughout the sector, but what can we do?

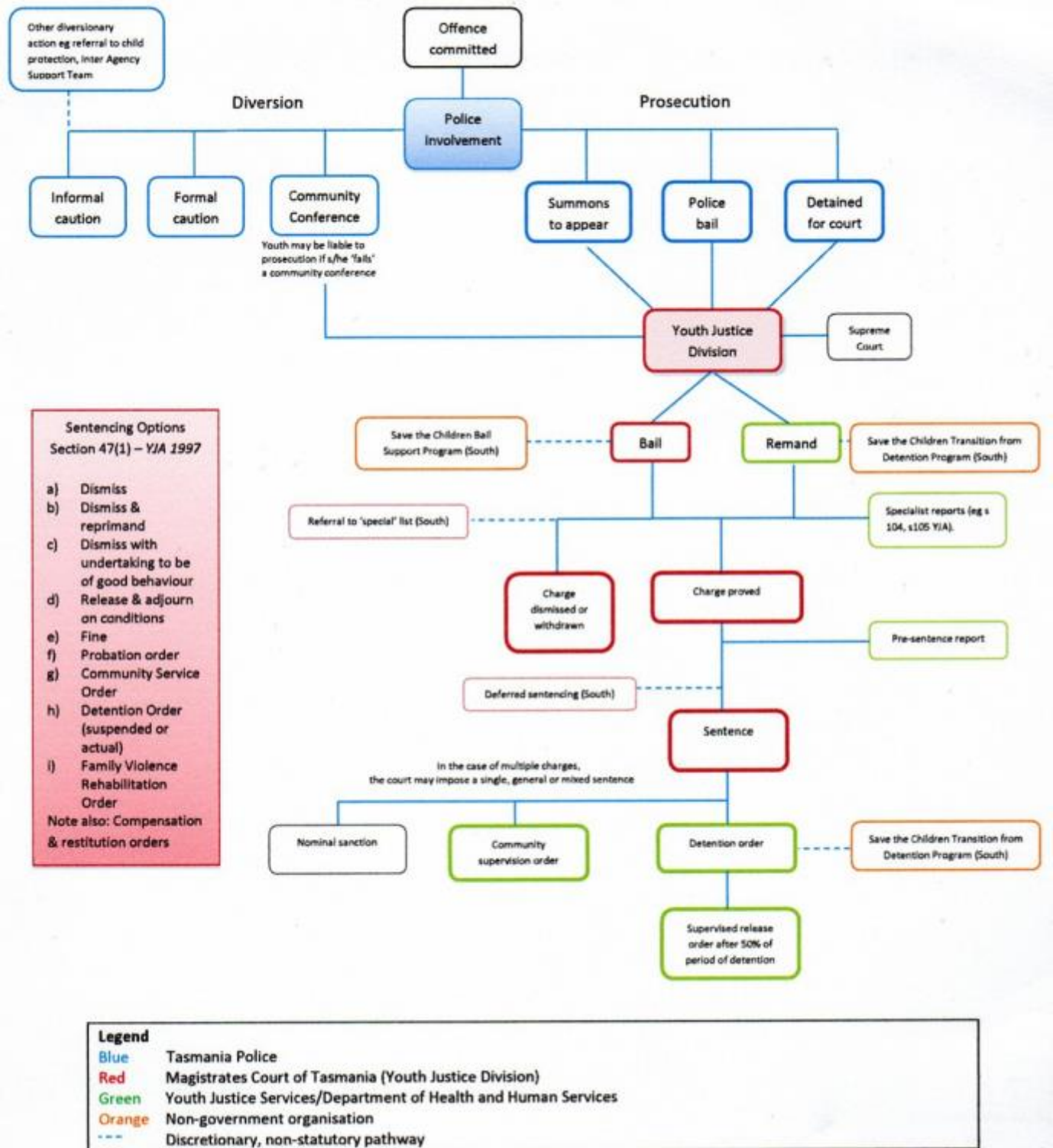
In Australia, young people can be charged with a criminal offence from the age of 10 years old to the age of 17 years of age (AIHW 2015a: 16). The exception to this is the State of Queensland, where youth justice ceases intervention at 16 years of age (Queensland Government: 2015). However, extenuating factors such as 18 year olds committing an offence when they were 17 may also involve youth justice on a case-by-case basis depending on State and Territory legislation (AIHW 2015a: 7). What connects State and Territories together are the increased use of diversions for low level offending and the use of restorative practices (see Daly & Hayes: 2001; Joudo-Larsen: 2014). This has also been the case in Tasmania. For example, as a direct result of restorative practices under the Youth Justice Act 1997, Tasmania now has the highest rates of 18 year olds in community conferences, compared to the national average (AIHW 2015c: 3). But how is Restorative Justice practiced in Southern Tasmania and is it addressing the causes of crime? Using Southern Tasmania as a case study, the chapter will demonstrate that while Restorative Justice is consistently identified to be a good theory, problems with misunderstanding and under-resourcing the diversionary system by the Tasmanian Government have diminished the effectiveness of addressing the causes of youth offending.

4.1 Tasmanian Youth Justice Legislation

The Tasmanian Youth Justice Act 1997 applies to young people aged between 10 and 17 years of age at the time of the offence (DHHS: 2015a). The introduction of the Youth Justice Act 1997 in early 2000 was due to concerns surrounding the previous welfare model increasing detention rates (Commissioner for Children 2013: 7). This occurred by a lack of procedural safeguards for young people who were detained without charge, on the grounds of coercive welfare principles and for minor offences (Commissioner for Children 2013: 7).

In response to these issues, the current Act has minimised the use of detention by focusing intervention on repairing harm and considering the needs of both the offender and victim (YJS 2008: 8). Currently, informal and formal police diversions, as well as youth justice community conferencing is used as a part of a three-tier system to divert youth from the youth court, based on restorative principles (YJS 2008: 6). Young offenders are encouraged to accept responsibility for the damage they have caused, which is believed to be partly why the number of youth being referred to the youth court has decreased (AIHW: 2015c).

Figure 4.1: The Tasmanian Youth Justice System



(Commissioner for Children 2013: 17)

Interviewees overwhelmingly had positive views of youth justice legislation. Notably, the reduction in detention rates was always a key factor of this belief. However, the transition from the old to new Act was said to have contributed to punitive sentencing practices by magistrates.

Interviewee: When the Act was being drafted, I was thinking this is a terrific piece of legislation. Fundamentally, it had the best of everything that was around late last century. The people who put it together were really smart people and they did a really good job. But there was one area when I was managing (agency) that was a major problem. When a young person was sentenced to detention they served x-amount of time; then they got automatic release into the community, which means magistrates that were sentencing youth to 6 months detention, were only really being detained for 3 months and the rest was served under community supervision. So, magistrates were giving young offenders longer sentences than what they would of previously done. But legally that's not sound.

This example demonstrates the tension that existed between magistrates and new sentencing practices of the Youth Justice Act 1997. Previous to 2000, Tasmanian magistrates were able to sentence youth to detention more readily. But due to the rejection of welfare principles under the current Act; magistrates (at this time) can be criticised to not be culturally connected to the philosophy of Restorative Justice. This appears to be a cultural problem in the judicial system, rather than a problem in legislation. However, since its introduction in 2000, the Youth Justice Act 1997 has been reviewed between 2008 to 2012. From these reviews, recommendations have been made to amend some aspects of the Act

that were deemed to be problematic (CYS: 2013). Currently, the legislation still allows a youth to be detained, but only as a last resort. This policy reflects the Tasmanian Government's obligations under the United Nations Convention on the Rights of the Child (UNICEF: 2016) to decrease rates of detention (Commissioner for Children 2013: 14). However, even after the Act's second review, there was still a lack of judicial safeguards that enabled youth justice to detain youth without first going to court.

Interviewee: It has now been fixed with amendments. But previously, if a young person came out of Ashley's on a supervision order and then they stuffed up, there was an administrative review that was allowed under the Act to send the youth back to Ashley's. The review was not a judicial review and that was a flaw in the original legislation (Youth Justice Act 1997). It was never used in my time. I would never use my administrative powers to cast my judgement on those young people to send them back to Ashley's without a judicial review. But it has happened and now that has been found to be inappropriate.

This account reflects a case in Tasmania when 2012 a 14-year-old boy was detained at AYDC for 81 days for not complying with post release bail conditions. According to *The Mercury* (2016a), the boy did not attend an education program after being released. Due to the breach of bail conditions, the boy was arrested without a judicial review and was sent back to AYDC for an additional 2 months. The boy called the State Ombudsman from AYDC to explain his situation, which resulted in an inquiry. Though speculating, it appears that this decision had been made as a result of long-term frustration in the sector to deal with recidivist

offenders, identifying a local problem magistrates have in managing recidivist offenders in the community. Interviewees had also discussed this topic, explaining many practitioners in the sector are frustrated with how the youth court is limited by its over reliance on community conferencing. This was explained to occur from a lack of other available community options. To interviewees, this practice occurs beyond legislative pressures. Instead, pressures were believed to arise from political agendas and due to a lack of funding to resource youth specific programs in the community.

Interviewee: The youth justice act puts pressure on magistrates that makes incarceration a last resort. They're also under pressure from youth justice reports, which are usually verbal. There are also government pressures. I know the current and previous government were keen on reducing the number of youth in detention. So, I think magistrates have those sorts of pressures. Also, the representatives for young people play a big part in the decision, like children's rights. So I think magistrates are between a rock and a hard place. They can see under the legislation that it is not appropriate legally to detain a youth, but they don't have the alternatives. So the system is creating more harm in the community and more harm for the young person.

Similar to this opinion, other interviewees shared frustrations regarding the management of offenders in the community. In one example, an interviewee provided a case study of how the youth court is not willing to detain chronic offenders due to their young age. This case study also revealed an occupational

discourse that some cohorts of youth are untouchable, demonstrating a belief that youth justice is at times unable to protect the community.

Interviewee: The police have been dealing with an 11 year old who has committed over 50 offences before turning 10 years old. The youth couldn't be charged till 10 years old, but the police have been dealing with the family for years. The youth has been lighting fires, destroying things, stealing cars. The youth has now 60 offences before the court and received a (x)-month good behaviour bond. But the system has tried community conferencing for all those offences over and over again, but the youth didn't respond. The youth has a young mental age. I heard a psychologist say about six years old, with no remorse or regret. So what can we do? They (the court) are not going to send the youth to jail. After the court gave the youth a good behaviour bond for all the offences, the youth committed another 20 offences. So that one is really hard. The youth is just going to keep offending, offending, offending; because of the low mental capacity. The youth has now committed over 100 offences and they are only the ones that have been filed. It is very hard to know what to do.

Arguably, further intervention is required by the State if a young person has committed over 100 offences and has not shown remorse. Especially, when legislation allows the detention of 10 year olds. The reluctance of not using detention for any youth with high criminogenic needs shows that the youth court is influenced by political pressure. But as discussed by a previous interviewee, this often occurs verbally. This case study also provides an example of how early intervention in Southern Tasmania is at times ineffective to address the causes of

offending and is a contradiction to the belief that youth crime has decreased. But as discussed in the literature review, the ability of the youth justice system to give youth additional chances is a strength, especially for youth from disadvantaged backgrounds, who have been influenced by their family's beliefs and actions. But this practice also demonstrates how the youth justice system can at times struggle to address the underlying causes of offending with its current resources. The following section will detail the views of interviewees of how agencies in Southern Tasmania work with young offenders.

4.2 Supervising Young Offenders in Tasmania

Since the introduction of the Youth Justice Act 1997 in 2000 and the Youth Magistrate's Court in 2011 (Magistrate's Court Tasmania 2013: 6), young offenders have been managed more restoratively in the community. The ability of the government and non-government agencies to facilitate desistance through community engagement has become at the heart of youth justice intervention in Tasmania. But, participants felt that the emphasis on community engagement was currently unable to meet the realistic needs of young offenders, because of a lack of suitable programs available. This problem has led to youth falling through the first and second tier levels of intervention. The following section will describe how each tier currently works and how interviewees perceive it.

4.2.1 Tasmania Police

Currently, Tasmanian Police have 1,210 officers in a State population of approximately 500,000 (DPEM 2015: 13). There are 73 police stations across the

State (DPEM 2015: 8). Tasmania Police is regionally divided into three districts: Southern, Northern and Western. Each district is divided into several divisions and is overseen by a Commander (DPEM 2015: 7). The Tasmania Police are viewed to have shifted towards restorative policies in youth justice matters. The introduction of the three-tier system of diversion is why the Tasmania police have introduced the Early Intervention Unit.

Interviewee: Cautions and attending police conferences are our number one priority. The other thing is monitoring undertakings to make sure they are done correctly.

Policing in Tasmania is governed under the Police Service Act 2003, the State Service Act 2000 and the Emergency Management Act 2006 (Tasmania Police: 2016c). During interviews, one participant discussed how Tasmanian police have embraced restorative values. However, there are no official records that were identified to me that showed annual training figures. Instead, interview findings identified that restorative training is provided periodically, with few police based around the State being trained in restorative practices.

Interviewee: In Southern Tasmania there are 7 or 8 officers that are dedicated to restorative practices and the early intervention unit, some of those officers are qualified 'authorised officers'. There are three or four officers in the Hobart area, which are qualified to do 'point five' duties (part-time). There are a number of other authorised officers (in Tasmania) who are restorative trained. An example is a course that ran last week, officers from rural stations attended, it is a

requirement of Tasmania Police that officers are strategically placed around the State to conduct restorative practices and cautions. There are now restorative trained police on Lady Baron, Flinders Island, Buckland, the East Coast, Queenstown and George Town. But it's the tyranny of distance that stops getting restorative training to these areas.

Even with restorative training, concerns were raised by interviewees regarding the structure of the Early Intervention Unit (EIU). This is because the EIU is based in Hobart and does not exist elsewhere in the State. Some interviewees felt that inconsistencies within the police department occur due to the lack of restorative training made to all officers. In one example, an interviewee described the decline of restorative training in policing over the last 10 years.

Interviewee: Prior to (time), the police used to teach restorative practices to all cadets. That doesn't happen anymore. What used to happen at the academy, the lecturer would start off with a case study of a kid from a crime family. It used to take 3 or 4 minutes to read out the case study to show cadets it's not a simple case of choice. Young offenders behaviours are caused by the trauma they have experienced and that you shouldn't be judgemental until you get to know them.

This identifies that two factions currently exist in the Tasmanian police department. One that understands restorative values and the other that does not. To McLeod (2003: 363-364), divisions in policing are due to the police as a government department to be slow to incorporate new philosophies. Cultural splits are due to the lack of consistency of training across the various ranks of

police and between districts. To Bazemore and Griffiths (2003), this is one explanation why police treat youth differently when applying early intervention, community policing and Restorative Justice. Interviewees similarly expressed this perspective, which were affiliated with the small number of authorised officers in Southern Tasmania.

Interviewer: Do you feel there might be a generalised frustration in the police department that young people are getting too many chances?

Interviewee: Yes, there are police officers that don't agree with the way youth are dealt with. However, the police who have had training and are authorised officers have a different understanding. They see youth offending in a different perspective.

The lack of restorative awareness amongst general police was identified in other interviews to create additional work for authorised officers and the EIU. This was due to the need to educate fellow police on restorative practices prior to a conference. Though, interviewees justified this culture due to the challenges of frontline police work, this example still demonstrates the need for additional funding for all police to be trained in restorative practices if consistency is to be achieved.

Interviewee: There is that consensus (cultural split in the police regarding youth justice matters), but it is hard. Because, until you work in the area you don't understand the restorative process. But they (frontline police) are working the streets; and they're getting abused and spat on by these kids. So it is very hard for

them to switch off and decide between the two. It's good to have a separate area (the early intervention unit) that's not involved in the incident. But it's quite hard to ring the officer up and say 'I know you want to send them to court, we know the family and we have dealt with this kid for a while. But he will benefit from a community conference'... and they'll say, 'well he just spat on me and just called me all these names'. So it's a balancing act, there are two sides. So we have to educate officers in conferencing, as well on restorative practices. It is really important, because they have done all this work, writing a huge file and it gets sent in and it doesn't go to court. They (the police) get quite upset. So we have to communicate with untrained police and other community agencies about restorative practices.

The perceived leniency towards youth for abusing police has also been identified to result in cases where police attend conferences as victims. However, some police are presenting with non-restorative / punitive agendas towards the youth, which creates additional challenges to the diversionary process.

Interviewee: The arresting officer doesn't usually attend community conferences. I remember one where the arresting officer did come along, because he was a victim. He actually made things a whole lot worse. He got very agro. He clearly did not understand what the process was about.

Interviewer: Authoritarian?

Interviewee: Yeah, he turned up at the last moment. So the facilitator did not have a chance to explain the process. It almost felt like an ambush for the young person.

I didn't know where I should stand in the situation. I should of said, 'well I think this has gone too far' and 'I think that you have really overstepped the mark'. He was really accusative and aggressive towards the young person who assaulted him. The assault wasn't real terrible. The police officer was just pissed off because he also assaulted one of his female officers. The police officer was really angry about that. So I don't know how much study police in general do with these sorts of processes, but it is something their culture needs to shift.

From these examples, the roll back of restorative training within Tasmania Police can be considered to affect the consistency and culture of early intervention across the State. Though authorised officers are strategically placed Statewide, the main cohort of authorised officers are still clustered in Hobart within the EIU. The EIU are effectively gatekeepers that determine who will be referred to community conferences or the youth court. They also have a presence in the youth court to assist in additional information and recommendations. In a number of interviews both strengths and shortcomings were discussed about the current structure of the EIU.

Interviewee: The early intervention police are passionate about young people. We are lucky, we have got really good people, they know about the kids because they are out there, they see them, they know their situation; and it is that relationship that works.

Interviewees also identified that the EIU is currently under resourced. The EIU mainly consists of part-time police. As well, there are more female EIU police

than male, which to one interviewee becomes problematic when considering the demographic of young offenders.

Interviewee: The EIU only exists in Hobart in the southern part of the State. I know they do outreach work with the crime families, but there are only a few of them (EIU police) and most of them only work part-time and most of them are female too. I see that to be a problem, because most young offenders are male.

In summary, Tasmania Police are developing restorative values further into the organisation with the development with the EIU. But, there still is a lack of consistency to work restoratively due to the limits of current training practices and the fact there is only one EIU in the State. However, the low levels of restorative trained police does not appear to be due to a lack of willingness amongst police, but appears to be due to a lack of resources available to the police department to deliver mandatory training to all new recruits. The benefits of doing so will reduce tensions between restorative and non-restorative trained police, as well as increasing the success rates of diverting low-level young offenders through better police informal and formal cautions.

Informal Cautions

Informal cautions are sanctioned under the Youth Justice Act 1997 and can be given by any police officer to a young person who admits to an offence. After the caution has been given, no further action can be taken against the youth for the offence. As described by Lennox (2001), policing relies on individual officers to build local knowledge that is impacting on communities. It is then up to

individual police in how they manage the young person based on the offence. The aim for police to divert youth with informal cautions is to minimise the chance for reoffending. This topic was readily discussed by a number of interviewees who believed current practices are working well.

Interviewee: If I catch a young fellow on a trail bike who is 16 or 17 years old and is unlicensed, he will get a caution. Afterwards, he automatically wants to get a license, I can give him information to do that. The moment he has got that license, he automatically has taken ownership of that whole scene and has something to lose. He now takes pride in the fact that he has got a license. That's a 'policing 101' approach to an ingrained social problem. It also addresses the behaviour (dangerous riding on public roads).

On the other hand, interviewees believed informal cautioning to be under-resourced in the same way not all police are trained in restorative practices. The lack of systematic restorative training has inadequately prepared police to understand the cycles of offending. As previously highlighted, only authorised officers receive additional restorative training.

Interviewee: New recruits used to be given papers on how to deliver informal cautions. An important part of that process is that informal cautions are done at the home with the family. Now, a lot of informal cautions are done on the side of the road. I don't think that is useful for a kid. It might be useful in terms of creating paper work, so other coppers know you have spoken to them, but you need to involve the family in the conversation. You need to use restorative questioning

techniques instead of telling them off so you're not seen as being dominating, controlling and authoritarian. I mean, how do you think people are affected when you're having those types of conversations.... 'You shouldn't do that, it's against the law, do it again and ill nick ya'. So it's not effective. Every copper has to be trained in how to do to informal cautioning. They get lots of training on how to use pistols and everything else, but they don't get the training on how to talk to young people.

Some interviewees also shared how restorative training provided specific language skills to work practically with both young people and their families. The ability to work with the offender's family is important in early intervention work, as the family may be socially isolated, living in poverty and engaged in generational offending. This is why restorative training becomes more important for police to engage and communicate with families, as they may not respond to a traditional law and order approach from police.

Interviewee: I have always been a supporter of working with at-risk youth and turning them around, but I wasn't sure about the youth justice system before the training. I didn't know about restorative practices. But now, I know if it is done properly with the right experience and knowing the right programs to send the kids too, it can really work. So it doesn't just focus on the kids, but it brings the whole family into the picture and how to help them to support their child. The training also gives you the skills to talk with people, the phrases and everything you use when you are helping people in a restorative way. So I think it's a real positive. The more police that get educated in restorative practices, the better. It really opens your eyes.

Therefore, informal cautioning is an important part of the early diversionary system. This section has emphasised the significance of consistent practices amongst police to divert youth at the first-tier level of youth justice. But even with restorative training, police are still at times ill equipped in the first-tier response to deal with the wider social problems that affect disadvantaged youth. Instead, formal cautions give authorised officers and the EIU unit additional tools to stop offending. The most common response is a police held conference.

Formal Cautions

Interviewee: I think that a lot of people think that police should not be doing conferencing. People think it should be left to the health department. But I think you get a better response from having the uniform and having that authority figure. If you use it correctly, it gets results. It's not used to scare kids, it is used for their benefit and it gets their parents attention.

Formal cautions are sanctioned under the Youth Justice Act 1997 and can be issued by an authorised officer. In these cases, a youth must be asked by an authorised officer if they want a formal caution and the youth must admit guilt to be eligible (Lennox: 2001). The formal cautioning system operates similarly to youth justice community conferences, except that police are facilitators.

Problems have been associated with police facilitators being overtly authoritarian (Miller & Blackler: 2005). But police held conferencing is still common throughout Australia, New Zealand, the U.S and the U.K. (O'Mahony & Doak 2004: 2). A key strength of police held conferences is the ability to deliver

conferences at short notice and at a variety of locations, normally being schools or police stations.

Interviewee: I normally work with schools. I will go in and deal with it, but I will deal with it at the time. I will get the family and other agencies in. But if it's a complicated case, there will be a file. I might even get them to the station for a formal caution the same day. I will get another youth worker in from alcohol and drugs or someone from the PCYC. I will be formulating undertakings as I am going. I incorporate those into anything else that might be happening. So for example, the kid might be banned from Woolworths for stealing, or they might have a suspension from the school. From there, I will be co-ordinating the suspension re-entry. What I am doing from a police perspective is finding out what the family background is and how I might co-ordinate that with undertakings. For example, undertakings might be to sign up for a football game, in which case I would have the footy coach at the formal caution.

Similarly, other interviewees positively identified early intervention approaches used by Tasmanian police. Two other diversions used by Tasmania police are, Community Respect Orders (CROs) (see DPEM: 2015) and the Illicit Drug Diversionary Initiative (IDDI) (Tasmania Police: 2016c). But even with these additional diversion options, limited referral options to the EIU were readily identified. As previously stated, the North and Northwest regions of Tasmania have a complete absence of an EIU.

Interviewee: Policing needs more resources, human resources. Because at the end of the day, its early intervention. Having lots of detectives chasing down crime ain't the answer. Young people are committing most of the crime. So we need to properly resource early intervention.

In summary, interviewees identified that the Tasmania police need more resourcing in early intervention. It was argued by many interviewees that a long-term approach is needed to increase the consistency of policing in Tasmania. One problem consistently argued by interviewees was that there is a lack of options available for police to refer young offenders to. The inability of police to help youth was believed to be why young people progressed to the second-tier of the youth justice system.

4.2.2 Department of Youth Justice

In Tasmania, the Department of Health and Human Services (DHHS) oversees the case management of young offenders that have surpassed early police intervention, or who have committed serious crimes. Youth Justice Services (YJS) supervise young offenders under community supervision orders (CSOs) using the Changing Habits and Reaching Targets (CHART) case management model (DHHS: 2016b). The management of young offenders includes overseeing their rights in the youth court, the supervision of bail conditions, community service work, suspended detention or supervised release orders (AIHW: 2015b). During interviews, practitioners in the sector expressed concern regarding how the

majority of the youth justice budget goes to AYDC, which leaves the majority of youth on supervised community based orders receiving minimal support.

Interviewee: The number of staff to person ratio is remarkable at Ashley's. I was there before Christmas 2015. There was 47 staff to 8 young people. That's expensive! So, most of the youth justice budget goes to 8 young people, with hundreds in the community that don't get any money at all.

As it was revealed, the limited budget to the community sector to manage offenders creates the situation where young offenders in the community rely heavily on the work ethic of their caseworkers. Though no one expressed having high caseloads, interviewees stated they had to individually problem solve issues to case manage young offenders due to a lack of resources. But this problem was not isolated to frontline workers, it had also affected management. Current staffing arrangements across management in YJS have been identified to be currently in a transitional period. This current situation has placed additional strain on the workforce and the abilities of agencies to meet the needs of young offenders.

Interviewee: Youth justice is currently under resourced. I was there the other day. The manager is now doing some other employment. The coordinator for the courts is now at child protection on a secondment and has not being replaced. The coordinator for youth justice conferencing is now running the whole section with insufficient staff.

The strain of resources in youth justice has been reported in the media (*The Mercury*: 2016b) and in a local NGO report (Anglicare Tasmania: 2009). These reports have adversely impacted on practitioners and clients alike. In one example, a youth justice client is believed to have transitioned to AYDC due to the effects of long-term homelessness (*ABC News*: 2016b). These issues have been argued to be why State agencies under the DHHS is failing the realistic needs of young offenders, which raises questions about how Restorative Justice and community conferencing in its current state is able to deal with the problem of poverty, social isolation and drug addiction.

Youth Justice Community Conferences

Though it will be examined in detail in chapter 6, this section will introduce how community conferences operate in Southern Tasmania. Youth justice community conferencing is the most commonly used form of formal diversions in Tasmania for young offenders (DHHS: 2016c); and is governed by the Youth Justice Act 1997 (Joudo-Larsen 2014: 9). To be eligible, young people must be between the ages of 10 to 18 years old. Referrals occur through the EIU under *Section 13(1)*, or the youth court under *Section 37* of the Youth Justice Act 1997 (YJS 2008: 10). Conferences aim to repair the harm caused by an offence and conclude with the young person agreeing to some form of reparation to make right the harm they have caused.

Interviewee: Undertakings have to be meaningful and have some sort of satisfaction with the job that helps the community. So undertakings have to be challenging but not unachievable.

A community conference is the same as for a formal police caution except the facilitator is contracted by the DHHS. In Tasmania, three individuals currently hold this position. Facilitators are responsible to set up conferences and contact all stakeholders, including the offender and victim. But victims do not have to be present and certain offences are excluded, such as: murder, attempted murder, manslaughter, aggravated sexual assault, rape, armed robbery, aggravated armed robbery and being armed with a dangerous or offensive weapon (Tasmanian Law Handbook: 2013). According to interviewees, community conferencing in Southern Tasmania is highly praised in comparison to other models throughout Australia.

Interviewee: I think that we have the best system in Tasmania. I think that one of the reasons for that is the small population of Tasmania, you tend to have better relationships between the departments and people know each other, which produce good outcomes. When you look at big States like NSW, if the police decide to send a person to court or a conference, they could be challenged by the youth justice department as a separate agency. In Victoria, they actually send the young person to court before a conference. I think our model is a good model, provided the police keep having conversations with other agencies.

Outcomes of conferences require undertakings, which normally consists of an apology or community services work (see Appendix B). Legislation also allows the use of monetary compensation (see Appendix B), but it is not accepted as a typical undertaking in the South (see Chapter 6). Consequently, if a youth does

not complete their undertakings, the conference will fail and the young person will be referred to the youth magistrate's court.

4.2.3 Youth Magistrate's Court

The youth court magistrate pilot program has operated in Hobart since January 2011 (Magistrate's Court Tasmania 2013: 6). The youth court is based in the adult magistrate's court building, but is separate to the adult hearing rooms; and has a separate waiting area. The dedicated youth court utilises problem-solving approaches by using community and therapeutic referrals to address offending behaviour (Magistrate's Court Tasmania 2013: 7).

Interviewee: The youth court is working in a restorative way. One of the major pluses is there is a dedicated youth magistrate in the south. That has made a huge difference. The youth magistrate communicates directly to the young person, so now there is dialogue.

The establishment of the youth court is viewed to have improved outcomes for young people by building relationships between agencies and utilising services such as: education, youth justice, child protection, and Save the Children (Magistrate's Court Tasmania 2013: 21; Commissioner for Children 2013: 20; Save the Children: 2016a; AIHW: 2015b). The youth court is used as a last resort for serious offenders. In one view, an interviewee shared how the youth court could be improved with additional options. In the current system, magistrates are viewed to be limited in what they can do. This was explained to occur due to

a lack of formal diversions, which has led to a cultural belief that conferencing is over used.

Interviewee: At the end of the day you need a stepped consequential outcome for young people. Because some young people think conferencing is a soft option. As part of the scripting of conferencing we say 'if you don't complete your undertakings, you will go to the youth court'. So you need youth court, but you need it to be on the same page.

Interviewer: Do you see the youth court to have any shortcomings?

Interviewee: What options do they have except for sending a young offender back to another community conference? It would be more effective for youth to go back to court for a review in 30 days... So someone from the bench could give them a pat on the head and say 'you have done really well, well done! I'll actually turn up to your presentation'...and they'll think 'wow the magistrate is going to come along'. So that's the sort of things that we should be doing.

This interview extract identifies how youth justice can operate in different ways to change the role of the court to provide supportive functions in the lives of young offenders. Though I consider such changes as radical to the current practices of the youth court, this opinion still reflects how Restorative Justice is able to provide alternative solutions to traditional justice for the purpose of reducing offending. Current failures in youth justice to address institutional

practices that create stigma are influential as to why some youth continue to offend through the diversionary system until they are eventually detained.

4.2.4 Ashley Youth Detention Centre (AYDC)

After exhausting court-based diversions, the youth magistrate can sentence young offenders to detention at Ashley Youth detention Centre (AYDC). AYDC is Tasmania's only youth specific detention centre, which is located in the State's north, approximately 4 hours from Tasmania's capital city of Hobart (DHHS: 2016c). AYDC is for youth (10 to 18 years of age) who are detained or remanded by the courts. Once at AYDC, detainees are provided with rehabilitative programs in accordance with the principles of the Youth Justice Act 1997 (DHHS: 2016c). But interviewees expressed a number of strengths and shortcomings of the use of detention in Tasmania, which at times was contradictory to government reports.

Interviewee: I think there is a realisation detention isn't really going to help them. But I know the police believe if they are at Ashley's they can't commit crimes, burn out more cars, which impacts on the community.

In recent years, AYDC has recently gone through reforms to improve service delivery (DHHS: 2016a). These reforms are linked to a high profile death of a young person in custody on October 25th, 2010 (see *The Mercury*: 2013). The Tasmanian Government has since made changes to the policies and procedures at Ashley's, notable changes were:

- Providing additional funding to increase nursing capacity to 12 hours a day, 7 days a week.
- Restructuring health services to the existing State-wide Forensic Health Service.
- Upgrading the existing health facility and purchasing new equipment.
- The introduction of a 'telehealth' service for remote consultation that operates 24 hours a day, 7 days a week.
- The introduction of an on-site pharmacy service.

(Adapted from DHHS: 2016a)

Even with these reforms, the Tasmanian Government still does not provide transitional facilities to assist detainees to re-integrate back into the community (Commissioner for Children 2013: 96). Instead, youth are expected to simply engage in community based case management. This model is problematic due to structural inequalities that face serious young offenders on release. This raises a vexing question, why the Tasmanian Government does not provide intensive transitional support for youth being released from detention.

Interviewee: We work with kids who come in and out of Ashley's. We assist them when they come back into the community. Among that cohort is a particularly high number of drug users; 'ice' is an issue. Another issue is housing. A lot of our kids are fully couch surfing, or homeless and have very limited services available to them. They are pretty difficult kids; they burn bridges rapidly. So yeah that is a massive challenge.

These debates raise concerns surrounding the lack of bail hostels in the three regions of Tasmania. This debate has occurred in Tasmanian politics (*ABC News*: 2010), independent reports (Commissioner for Children Tasmania: 2013) and academic research (Bailey: 2009; Travers, White & McKinnon: 2011). From these findings, it is clear that there is a gap in service delivery for this particular cohort. The lack of both preventative and post release facilities for young offenders were discussed by interviewees, which indicated additional problems for the youth court when bailing recidivist offenders into the community.

Interviewee: That's a major problem, not having a half way environment after being released from Ashley's. There should be stable accommodation staffed by professionals so they can transition back into the community, particularly if they have no family or friends. It is really difficult for these kids. Just imagine a 15-year-old kid that has been to Ashley's for 3 months and then comes out and hasn't had drugs or alcohol for three months, they just burst out, it's really difficult to manage. There is no solution to that. You need a transitional environment where they have support and understanding. That is definitely needed.

Adding to this problem, recidivist offenders have high rates of AOD use, trauma, transient lifestyles and mental illness (AIC: 2006c; Wright & Liddle: 2014; Barnert et al: 2015; Christian et al: 2016). There has also been a range of papers demonstrating the damage detention has on young people (Cope: 2003; Golzari, Hunt & Anoshiravani: 2006; Bateman & Hazel: 2015). None the less, interviewees identified a number of strengths of AYDC. These strengths were

based on how detention can stabilise young people from chaotic lifestyles, by giving them an opportunity to feel safe.

Interviewee: I agree there are positives. When I went up there, one of the boys came up to me and said 'come and have a look at my room'. He had pictures of cars on the wall; his room was clean and tidy. This was completely different to his home life; I knew his home, it was chaotic. So having that alternative lifestyle forced upon them isn't a bad thing. I think the activities they do at Ashley's are very beneficial. They have a reward system based on colours. So if you maintain your compliance, you get to do all the activities. So it put boundaries around them.

But even with these strengths, AYDC is not for this purpose. It is a detention centre to rehabilitate offenders, not for young people with drug addictions or in need of respite from their families. This identifies a failing of the State government to provide a State run detox facility for youth and improve aspects of the child protection system. Other shortcomings were similarly noted, specifically how its location impacts on the ability for youth to stay connected with family.

Interviewee: The weakness of Ashley's is that it isolates the young person from their family in the south, the northwest and even from Launceston. It's still an hour's drive from Launceston; and some of those families can't afford, or can't be bothered to visit. It's a long way. There's also a problem with the structure of the facility, with the high walls. It is really a prison.

Interviewees were also concerned with the issue of criminal amplification at AYDC. Criminal amplification or criminal schooling is a term that explains how offenders learn how to better commit crimes (Nguyen et al: 2016). For example, common conversations in detention are believed to surround offending stories, particularly how to steal cars and what to say to police.

Interviewee: So the disadvantage of Ashley's is that all the recidivists and hard-core offenders are all together. So it's a de facto prison for 10 to 18 year olds. Kids are going in not knowing how to pinch a car and they walk out knowing how exactly to pinch a car, or how to burgle a house. It's unavoidable in a detention centre, because you need to have detention centres for some young people. It's not safe for them in the community, or safe for the community for that matter. So that's the down side.

Therefore, detention in Tasmania is understood by practitioners to have both positive and negative aspects. On one hand, detention in Tasmania is necessary, but overtly expensive for the number of youth it accommodates. The negative issue was the impact detention has on young offenders, specifically, criminal amplification and detachment from family. But, there are alternative options. For example, youth could alternatively be treated in community facilities for AOD addiction. Such facilitates could reduce the staffing levels and running cost of Ashley's, which then could be re-distributed to early intervention programs and post release facilities. But since these services do not exist in Tasmania, higher emphasises is placed on the youth justice system for youth to detox and may indicate why, some youth continue to offend through the diversionary process.

In most cases, it is unlikely that a one-hour diversion is able to deter a chronic offender with complex needs. This is why additional referral options are needed in Southern Tasmania.

4.3 Building Pathways Out of Crime

The Tasmanian youth justice legislation was drafted to improve the lives of young offenders. Restorative Justice in this view has improved the wellbeing of many youth who would have previously been detained at AYDC for minor offences. But practitioners recognise that restorative theory is difficult to apply both because agencies are under-resourced and also because there are often individualist assumptions. This also appears to be the case in Southern Tasmania, with the current system heavily relying on conferencing and the rhetoric of individual responsibility to rehabilitate. This is not to say that diversions in the current system have not benefited offenders and victims alike. But as discussed, the diversionary process does not work for all youth for a number of reasons (as discussed in Chapter 2). One of these reasons is due to the effects of social inequality. This is why there are benefits to using programs based on the pathways perspective (France & Homel: 2006).

Pathways research has revealed how desistence occurs through developmental pathways and societal access routes (France & Homel 2006). Using this theory, offender programs should be built on community partnerships and recognised skills that create employment opportunities (France & Homel: 2006). A pathways model is beneficial to youth justice in Southern Tasmania, as it

confronts the problem of social inequality and generational offending. This is why more services and programs should be the basis of diverting young offenders in the community. But, this is not to say that offenders are at times unwilling to participate in community orders. In these cases, practitioners need to work with this cohort to engage through establishing trust and building relationships. Therefore, the personal abilities of practitioners are integral for the process of desistence. The following chapter will discuss how participants understand and work with young offenders.

Chapter 5

Professional Pathways, Perspectives and Practices

“There is no single practice of youth work. Instead, there are a whole variety of approaches to youth work, many different kinds of motivations for entering youth work and substantially different contexts for the achievement of particular goals and objectives in this field” (White 1990: 174).

Practitioners who work with at-risk youth use particular attributes and abilities, which supersede past administrative skills (Bruce et al: 2009). As demonstrated by Thomas (2012), practitioners who work with at-risk youth use a relationship centred approach whilst maintaining agency policies and procedures. Broadly, working with young offenders requires the ability to build trust and rapport within short periods of times and often in sterile office environments. Due to these factors, practitioners in the youth justice sector require particular attributes in order to help young offenders to remain engaged in intervention⁷.

The chapter will outline the backgrounds, individual philosophies and practices, which practitioners use to guide their work with young offenders. Findings from interviewees will be compared with the local examples and debates in criminology. The aim of this chapter is to understand how practitioners in Southern Tasmania work with young offenders and if these practices are

⁷ For further information regarding rehabilitation work, practices and skills with offenders see Graham and White (2015).

beneficial to facilitate desistence. This is because not all practices in the youth justice sector may be beneficial for at-risk youth, such as in the case of youth workers in Hobart who give cigarettes to minors (see Thomas: 2012). Therefore, identifying how practitioners work with young offenders is of importance.

Commencing field research, I soon discovered some interviewees felt their views and experiences were not of importance. Souhami (2012: 119) also noted this phenomenon when she researched youth justice practitioners in the U.K. But, the relevance of practitioner perspectives has continued to be utilised within academic research in both the youth and adult justice system (see Goulette et al: 2014; McElvaney & Tatlow-Golden: 2016). Adding to this research, I wanted to understand the pathways that led practitioners to their current role. By identifying these attributes, I was able to find similarities that bound practitioners across the multiple agencies as a singular group. Findings revealed specific skills that were largely restorative and relationship focused.

Interviewees also discussed their in-depth knowledge on local offending cultures, highlighting the nature of youth crime in Southern Tasmania. All interviewees shared the same views of what causes recidivist offending; and who also shared similar frustrations towards that lack of resources available to meet the needs of recidivist offenders.

5.1 Pathways into the Youth Justice Sector

Interviewees detailed their personal pathways that led them to work with young offenders. This topic has been absent within criminology, but is becoming more

relevant for a number of reasons. This is due to the growth of the professionalisation in the youth justice sector and for people who wish to work with vulnerable people. For example, in Tasmania there is now a requirement to have additional background checks to be eligible for the 'working with vulnerable people – child related activities card', which is required to be renewed every three years (Department of Justice: 2016). This shift in employment requirements is re-defining the cohort of individuals who are eligible to work in the young offenders. To further explore this topic, this section will discuss the previous qualifications and experiences of interviewees.

5.1.1 Qualifications and Life Experiences

Interviewees came from different backgrounds and have chosen to work with young offenders for different reasons. They are all bound through a passion to work in challenging roles for the benefit of others. Interviewees had varied previous achievements experiences that started in youth.

Interviewee: I Guess I go back right to when I was 15. I found that in high school, I was involved in cadets and got to be the regular cadet sergeant. I was also a prefect and I then went in the Australian Army and joined the Army Apprentices School and came out in the Defence Department. After 10 years of service as a sergeant and as a NCO, I then joined the police... I was also a volunteer fireman... I worked on the (suburb) youth activity service committee, management committee and after school program for young people.

Other interviewees wanted to work with youth from disadvantaged backgrounds from their own experiences growing up. In these cases, interviewees identified life experiences to benefit their abilities to work with at-risk youth. The following example symbolises how pathways start from a variety of backgrounds that are not necessarily based on academic achievement, but instead based on a desire to help others.

Interviewee: I went to a rough school...and I have always wanted to be a (occupation)... I always wanted to come back and try and help people, like the people that I went to school with. I relate to them pretty well through sport. I try and lead them on the right path and give them a good role model. That is what drove me to do it. I find it a lot more rewarding now doing this work than I have in any other work that I have done.

These selective narratives identify a shared identity amongst interviewees. Particularly, experiences as a youth are influential to work with young offenders as an adult. But as mentioned, not all experiences may be a positive reason to work with young people. Though, these views have not been expressed in this study, it still reflects why national trends have increased the use of national criminal checks for frontline workers. In the same light, the professionalisation of conference facilitators has had on going criticism for often being under trained in legal matters (see chapter 1), resulting in conferences becoming punitive. But even with these concerns, conferencing is still based on the belief that anyone can be a facilitator. This is why teachers and police informally fill the facilitator

role a part of their employment. Extending on this debate, interviewees identified a range of skills needed to deliver conferences as a facilitator.

5.1.2 Conference Facilitator Training

In Tasmania, as throughout the world, there is no legal requirement for accreditation to be a conference facilitator, but there is widespread consensus that facilitators need to be trained (Bruce: 2012). This view is supported by Wachtel, O'Connell and Wachtel, who state that only experienced people should facilitate conferences and that their step by step guide, or two day training course would not prepare someone to facilitate conferences of a serious nature (2010: 181). In Southern Tasmania, for facilitators to be eligible to run a conference they need to receive training from the private sector. But interviewees also identified other experiences such as previous employment and personal characteristics to be equally of value.

Interviewee: From my previous employment, I developed strong communication skills, conflict skills, resolution skills and experience with working with people from all walks of life, which make it easier to build rapport with people.

Interviewer: Do you see (organisation) training to have helped you specifically in youth justice matters?

Interviewee: Yes, I have built skills, but I wouldn't necessarily say they were better skills than skills that other people have in maybe teaching. So I think the skills that

I acquired in the (organisation) is very helpful, but I wouldn't say I am better equipped to deal with children than other vocations.

Interviewer: Would you say that all facilitators in Southern Tasmania are qualified to be facilitators?

Interviewee: Yes, my understanding is that they are.

Interviewer: What training have you received?

Interviewee: I didn't have training. What happened in that respect was that I knew somebody, after which I was told to get some training through a local business and to attend a conference to see how it works. So that was the extent of my training.

The nature of facilitators in Tasmania being external contractors gives the ability for youth justice to choose the best personality for each case. This system ensures that facilitators are not personally involved with any participants and is reflective of the belief that facilitators should not run conferences that involve themselves (Wachtel, O'Connell & Wachtel 2010: 181). However, this argument is counter to the Wagga Wagga model (Daly & Hayes: 2001); and negatively targets Tasmanian Police, as they act as gatekeepers to the diversionary process (see Lennox: 2001). For example, police that facilitate their own conference can become judge and jury of their own investigation (Young: 2001).

Opposing this view, research has indicated conference stakeholders felt comfortable with police facilitating conferences (McCold & Wachtel: 1998 as cited in Wachtel, O'Connell & Wachtel 2010: 182). But as some interviewees

reported, police in Southern Tasmania have been known to switch between restorative and authoritarian questioning when acting in facilitator roles. These practices are believed to be justified under altruistic concerns for the victim. But to Young (2001), this approach is counter-productive to how conferences are supposed to be facilitated.

Interviewee: I always make sure the victims are satisfied. I won't leave a conference if a victim is not satisfied; and I won't let a young offender leave a conference if he is not understanding and accepting. I will keep on my game until I get some moderation.

This example shows how some youth in Southern Tasmania are not ready to be referred to a conferences process, resulting in facilitators using other methods outside restorative dialogue to deal with non-engagement. To Young (2001), breaking restorative dialogue in conferences is not necessarily wrong if the outcome results in diverting the offender. But arguably, it would not be known at the time of the dialogue if the conference will be successful by using an authoritarian approach. This is because non-restorative dialogue could make a youth feel stigmatized and cause them to walk out mid conference. The harmful effects of stigmatizing young people in the justice system has been known for some time, which is also the reason why Restorative Justice was introduced in the first place (see chapter 1). Therefore, breaking restorative dialogue is not recommended in conferences as it can negatively affect conference outcomes.

In summary, this section has further emphasised the importance of good facilitator training. Findings have suggested that facilitators should understand more than just the core concepts of restorative theory. Instead, facilitators need to extend their knowledge to include the challenges of practicing restorative theory with involuntary clients. It is also argued that facilitators need to take an advocacy role to address the reasons why conferencing as a formal diversion needs to be able to address the causes of crime and not simply making the young person accountable. The following section will explore four of the most common factors why youth offend in Southern Tasmania.

5.2 Local Offending Cultures

Interviewee: Clients come from broken families, or they have a blended family history of unemployment, welfare dependency, drug and alcohol use and child protection intervention; that sort of history.

Contemporary criminology views criminality to be a consequence of unequal power relations that favour groups with resources over disadvantaged groups (Young: 2008; White, Haines & Asquith 2012: 248). This belief explains why young people from low socioeconomic backgrounds are over represented in the youth justice system (Jacobson et al: 2010). Results from field research also found this to be the case in Southern Tasmania. Specifically, young offenders in Southern Tasmania often present with experiences of abuse and trauma and come from backgrounds defined by poverty. To interviewees, the biggest influences of youth crime in Southern Tasmania were crime families and the consequences of poor parenting.

5.2.1 Parenting and Crime Families

Interviewee: It's the upbringing and environment in which they are brought up in.

That's not the only factor, but that's what I see to be the major factor.

In criminology, correlations have been made between parental offending and the prediction of their children's offending trajectories (Rowe & Farrington: 1997; Uggen & McElrath: 2014). In contrast, good parenting and delayed child rearing by people with criminal convictions reduce the onset of childhood delinquency (Hay et al: 2016). This is one reason why poor parenting and the lack of parenting skills by teenage parents have been used to predict risk factors (Nagin, Pogarsky & Farrington: 1997; Andal et al: 2016). For example, using conviction data from the Netherlands, Bijleveld, and Wijkman (2009) studied the transmission of offending over 5 generations from 1882 to 2007. Results indicated that parental criminality influenced their children's propensity to offend. However, parents who desisted from offending prior to having their children did not increase the risk of their children's offending. Whereas, ongoing criminal behaviour by the mother did. Bijleveld, and Wijkman (2009) concluded that generational offending is a result of poor nurture by the parents and not a result of biological hereditary or from judicial labelling. Reflecting on these findings, interviewees similarly expressed how poor parenting and family environments often define the backgrounds of young offenders in Southern Tasmania.

Interviewee: In nearly every one of those cases, there is generational criminal offending, which includes drug use and a high level of abuse within those family contexts, specifically in terms of neglect, physical abuse and verbal abuse. That's what common amongst the cohort of the kids who start offending in their early ages. No seven year old should have to be asked to inject her mother because she can't do it herself. Some kids are third generation in their family of offenders. As disturbing these cases are, when you see them, you can see these kids have potential.

To Goodwin and Davis (2011), research into generational offending has largely excluded the correlation of gender. These findings relate to research that has solely looked at the trajectories of boys offending in relation to their fathers (see The Cambridge Study in chapter 2). Goodwin and Davis extended their scope to include the influence of the mother's offending onto the son and daughter. Findings revealed that fathers with criminal records are more likely to influence their children's offending than the mother. Whereas, sons are more likely than their sisters to offend when they have two criminal parents. Also, serious offending by children is most likely to occur when both parents have criminal records. Goodwin and Davis conclude that the reason why parental offending transmits to their children is because of the culture of poverty and abuse that defines criminal lifestyles (also see Farrington et al: 2001). This concept was similarly identified to define many young offenders in Southern Tasmania.

Interviewee: Here in Southern Tasmania we have families and young people that have a culture of acceptance, tolerance and belief that it's ok to commit crime. It's

their way of life. It is entrenched that you offend, which includes stealing or hitting somebody if they look at you the wrong way. It always seems to be the same families we hear about and work with.

Interviewees also explained that crime families in Southern Tasmania actively recruit vulnerable youth to commit crimes on their behalf. The recruitment of youth by criminal families was believed to occur for the acquisition of material goods through shoplifting and other thefts. This practice has been portrayed in the movie 'Oliver Twist' and can appear to be fanciful in modern society. But interviewees believed this practice is a systematic problem in the State, which is due to current laws in Tasmania making the issue difficult to police. For example, youth that commit crimes on behalf of a crime family are still individually responsible. Nonetheless, police are aware of the hierarchy of crime families and how caregivers are instructing youth to steal.

Interviewee: We have a small number of people causing a huge amount of crime and they are generational families. They are criminal families and they are well known to us. We have one crime family who target vulnerable young people and draw them in and then get them to commit crimes for them. We are fully aware that is happening. The reason for that occurring is due to the low socio economics of the area, as well as disengagement from education.

This is one reason why Farrington (2012: 271) believes intervention in the lives of at-risk children should commence both in and outside the youth justice system between the ages of 6 to 11 years of age. Recently, national responses to

entrenched generational abuse and offending has seen the use of early intervention in the lives of children (Piquero et al: 2009). But not all early intervention programs refer to clinical intervention. In a recent example, the Youth Affairs Council of Western Australia (YACWA) has proposed that councils should develop community support programs based on art and sport (Laschon: 2016). For example, CEO, Ross Wortham believes that interventions based on pathways research that make community programs fun, will divert young people before they reach crisis point. However, in Southern Tasmania, community programs for at-risk youth are not valued (due to the Tasmanian Government recently closing two programs in the greater Hobart area). Interviewees also expressed that early intervention programs are needed to divert at-risk youth from criminal lifestyles. In one example, an interviewee describes the concerning early age of offenders in Southern Tasmania, which identifies that community programs need to target youth from the age of 10.

Interviewee: We get an alarm if we see 10 to 12 year olds. Often they start coming on the radar around 14 (years old). Some clients do their orders and then we rarely see them, but again that is rare. We work at the hard end of the spectrum and that is where we should be. The team work with youth who have multiple orders. So for example, we currently have a 17-year-old who we had first contact with in 2010 (11 years of age). That young person is still with us today and has 13 orders pending. In 5 years he has just finished one order, but he now has more charges pending in court.

Interviewer: What would be the main issues for that young person?

Interviewee: Criminal family.

Interviewer: So generational, entrenched anti-social beliefs?

Interviewee: Yes, absolutely!

In all cases, interviewees identified poor parenting and generational offending to be a reoccurring theme why young people commence criminal pathways in Southern Tasmania. This topic appeared to be a source of occupational frustration across the youth justice sector. Interviewees held strong beliefs that the influence of criminogenic families is at times too powerful for a young person to challenge until they could sever ties. This belief also reflects the concept of 'knifing off' by Maruna and Shadd (2007). However, children of crime families may not have this option and therefore will continue to offend, as to them, offending is a normal part of life. Arguably, living in these environments can account to nothing less than abuse, which was another topic that interviewees readily identified to be a cause of youth offending in Southern Tasmania.

5.2.2 Abuse and Trauma

Interviewee: The common factor that defines young offenders is trauma.

The correlation between early childhood trauma and youth justice was readily discussed in interviews. Recent studies and reports have also reflected this fact both in Australia and overseas (Abram et al: 2004; AIC: 2006c; McCuish, Cale & Corrado: 2015). The consequences of early childhood abuse have increased the dual status of young people in the youth justice and child protection system

(Baglivio et al: 2015). The long-term effects of childhood maltreatment are one of the reasons why children disengage in school and become recidivist offenders (Paton, Crouch & Camic: 2009).

Apart of this research, particular types of abuse have been linked with increased rates of particular offences. For example, higher rates of sexual abuse are believed to increase the chances of sexual offending by the victim; this concept is known as the 'cycle of violence thesis' (Delisi et al: 2014). The interest into why victims go on to commit particular crimes has also influenced research in Australia. In one study, Teague et al (2008) reviewed the offending histories of 480 males and female young offenders in Queensland, Australia. Their findings revealed that the effects of physical abuse increased the chances of violent and property offences. Amongst this sample group, previous physical abuse had occurred in both the community and in schools. Results indicated that over 52% identified their parents were not abusive, compared to 33% with one abusive parent and 15% with two abusive parents. But further analysis revealed that higher rates of serious physical abuse influenced higher rates of serious violent offences (Teague et al 2008: 330). This example explains as to why there is an overrepresentation of child protection clients in youth justice. Similarly, an interviewee shared a narrative of how babies are being neglected by their parents who are currently still in child protection themselves.

Interviewee: The relationship of offending rates with child protection is a generational thing. All their connections are within child protection, they are all offending and they don't have any other social connections outside child protection

and offending. So these 14 and 15 year olds are now having kids and they are still going out and they're not engaged in how their kids grow. The attitudes of some of these families are shocking; they (teenage parents) think after the kid is two years old, 'they can look after themselves because they can talk'.

Findings such as this show how the effect of experiencing multiple traumatic episodes aids the problem governments have to stop the cycle of abuse and rehabilitating young offenders with complex trauma. In these cases, offenders who have been abused have been characterised to lack impulse control, have high aggression, develop anti-social disorders and are at greater risk of suicide (Ford et al: 2012). According to Flannery, Singer & Wester (2001), young offenders who have been exposed to long-term abuse in both the community or at school are more likely to commit suicide. The problem of abuse amongst young offenders has now led to the increased use of trauma informed practice in the youth justice sector (Donisch, Bray & Gewirtz: 2016; Child Welfare Information Gateway: 2015).

Trauma informed practice is defined as a strength based framework that is defined by a number of models (Hanson & Lang: 2016). Models of trauma informed care are structured on multiple disciplinary teams (MDTs) that provide support from psychiatrists, psychologists, social workers and home based practitioners (Olafson et al: 2016). According to the Tasmanian Government website, trauma informed care is not a part of youth justice intervention (DHHS: 2016g). As well, trauma informed care was not discussed as a model of practice

with young offenders, though interviewees readily discussed that most clients have experienced trauma.

Interviewee: I guess with our kids most of them have trauma and other issues.

There are a lot of barriers before we can start to achieve something.

According to Boxall, Payne and Rosvear (2015) the most common form of trauma amongst young offenders is from witnessing domestic violence. This topic has been researched for some time. But to Elias (2016), social institutions fail to meet the needs of youth who are witnesses of domestic violence and are also unable to protect victims from future domestic violence. In one local example, a caseworker from Anglicare Tasmania was aware that her female client had a family violence order against her partner (Beavis: 2016). Once realizing the order had been breached, the caseworker responded by contacting police, but did not want to initially sign a statutory declaration. This action inadvertently resulted in the police not being able to arrest the woman's partner. Eight days after this had occurred, the man had beaten the woman to death. This case study shows the problems of policing domestic violence in Tasmania; and is reflective of why interviewees believe child abuse is symbolic of many young offenders in Southern Tasmania.

Interviewee: There has never been a young person on our books who I am aware of who has not experienced some significant trauma.

In summary, this section has explored how the occupations discourse of youth justice workers has understood the problem of abuse and trauma on youth offending. The findings suggest that in Southern Tasmania, child abuse is problematic, which also reflects the other concerns of interviewees regarding crime families in the region. Therefore, young offenders can be identified by a dual status of being managed by both child protection and youth justice. In these instances, the effect of exposing youth to other abuse victims at a young age amplifies offending (see Maschi, Bradley & Morgen: 2008). This is because CP clients socialise together, which in turn solidifies the belief that abuse and offending are normal. Therefore, the influence of friendships on youth crime is an important topic to understand youth crime, which was also identified to be a cause of youth offending in Southern Tasmania.

5.2.3 Peer Networks

Interviewee: Demographics of young offenders are predictable; their offending is usually done in groups, or under the influence of drugs and alcohol.

Peer association is a common pattern to predict and explain youth crime (Dong & Krohn: 2016). Gang membership is a form of peer influence and is often a popular belief of how young offenders start offending. But gang culture amongst young offenders has not been a significant problem in urban Australia. Instead, gang influence is believed to be more relevant to understanding youth crime in indigenous communities (Cunningham et al: 2013). But due to recent incidents in Victoria, Australia, the problem of gang influence on youth offending has been established in government reports (see Victoria Police: 2016). Commenting on

this incident, Professor Allen Perry, a lecturer in criminology at the University of Adelaide, stated public violence involving gangs would become more frequent. “The reason why there appears to be an increase in youth violence... is because of changes in socialisation, particularly through family and early environments... this has occurred through the last 20 to 30 years” (*The New Daily*: 2016). But unlike Victoria, participants did not identify gangs to be inherent of youth offending in Southern Tasmania. Instead, friendships and family networks were more relevant to interviewees in explaining why youth enter and maintain offending lifestyles.

Interviewee: A lot of the young people that I am dealing with come from very dysfunctional backgrounds. Families have been involved in criminal activity and there is a lot of homelessness and drug issues. Families don't value education. Having said that, we also deal with offenders from really great families. So their children have come into contact with poor associates, who may have criminal connections and drug problems. So their families have little control over them.

But as interviewees reminded me, not all young offenders come from dysfunctional families (also see Paik: 2016). In these cases, young people have fallen into the wrong group to the dismay of their parents. This group of offenders are more likely to be defined by their lack self-control and want to engage in risk taking behaviours as identified in the age crime curve (McVie: 2005). In these cases, the onset of delinquency in adolescents can be reduced through good parenting (Hay et al: 2016).

Interviewee: Peer pressure is the biggest thing that gets overlooked. I think peer pressure, self-esteem issues, confidence and trying to fit in is a big part of offending. So it's not always the parents, it's the peer group and peer pressure and young people making decisions in regards to that.

Arguably, the inability of youth to break away from their immediate peer group influences their ability to desist or become recidivists. Rosen, Beron and Underwood (2016) also believe youth who attempted to leave their peer group can be subjected to various forms of bullying and harassment. Similar studies in the U.S have also explored how gang members often physically punish individuals with high levels of violence if they attempt to leave (Pyrooz & Decker: 2011; Sweeten, Pyrooz & Piquero: 2013). This is why youth often desist from offending after cutting ties with their previous peer influences (Maruna & Roy: 2007). This concept was also relevant to understand youth offending in Southern Tasmania. In one case study, an interviewee explained how a young person was made to offend out of fear of physical reprisals.

Interviewee: I work with a young person. Between Monday and Friday everything is good. But by Saturday, a certain cohort will pick him up and use him for their crime. He is the one who gets picked up by police, he is the one who is charged, he is the one who is going to end up in jail, not the guys who have complete control over him. If he doesn't do what they tell him too, they'll just bash him.

In summary, the effects of peer influence are a good explanation as to why youth offend. Importantly, what was most interesting about researching peer influence

in Southern Tasmania is that it has illuminated the darker side of group violence on individuals who are attempting to stop offending. In other instances, peer influence has also been said to increase AOD use amongst minors (see Duarte & Molina: 2007). To White et al (2015), any drug use by youth has the potential to amplify contact with the justice system. The following section will describe how AODs influence youth crime in Southern Tasmania.

5.2.4 Alcohol and Drug Abuse

Interviewee: Drugs have been a huge problem in Tasmania for a long time.

Alcohol and drug related crime in Australia persists throughout all age groups and is a systemic problem when considering crime in both the youth justice and adult criminal justice system (ABS: 2016; AIC 2014: 45). The effects of drug use are known to increase anti-social behaviour and inhibit desistence amongst young offenders (Hussong et al: 2004). A systematic problem for youth justice in Southern Tasmania is the absence of a State funded detox facility (DHHS: 2016d). Currently, there is only one community service in Southern Tasmania that provides respite accommodation for 16 to 30 year olds who are recovering from addiction. But to be eligible, clients must already be detoxed and need to engage in Christian values (Pathways Tasmania Inc.: 2016). Though partially funded by the Tasmanian Government, the criterion for eligibility actively discriminates against non-Christian youth and young adults who may be recovering from AOD addiction. The void in service delivery arguably puts additional pressure on the youth justice system to provide options for this demographic. Though not

identified in any government findings, interviewees identified that AYDC is used as a subsidiary detox facility for chronic offenders who offend to feed their drug habit.

Interviewee: Ashley's is used as a detox facility. When I was up there last year, the first thing the staff said to me, 'when young people first come to here they have to go through a detox process, because they are so high'. So beside what magistrates are saying about not putting young people into Ashley's on grounds of welfare as a detox facility, as it is non-custodial, they have no choice. Because this young person is so desperate for treatment, it's the only place that they're going to get it. They're bending the rules to do that. But a person who needs to come off drugs shouldn't be going to a detention centre.

Practically, young people in Southern Tasmania who are addicted to AODs rely on community-based supports. This creates a dilemma, as most youth justice clients can be considered to be involuntary clients and demonstrates why conferencing in Southern Tasmania use AOD counselling as a regular undertaking. In these cases, referrals are based on a single visit, opposed to forced long-term participation.

Interviewee: We can put an undertaking in place, but it would only be to attend an initial session. We don't put something in place that they must attend for a week, not for 6 weeks. Because if we do, we are then taking over the role of that health professional. If we say they must attend for 6 weeks and the health professional

says this child only needs to come for 3 weeks, or I don't have the availability in my schedule then the young person might be penalised.

Drug addiction amongst youth justice clients was a continual point of discussion throughout interviews. One drug that was identified to be more significant amongst serious offenders was amphetamines. Though statistics on youth using amphetamines in Australia is relatively minor compared with alcohol abuse (Hulse, Robertson & Tait: 2001; Australian Drug Foundation: 2016); the use of ICE amongst Australians above the age of 14 years old has doubled from 21.7% in 2010 to 50.4% in 2013 (Australian Drug Foundation: 2016). The increase of illicit drugs use has also been linked to long-term harm to youth aged between 15 to 25 year olds, with effects ranging from psychosis to suicide (ABS: 2008). Within these discussions, interviewees were more concerned with how amphetamine addiction increased the challenges of working with youth in Southern Tasmania.

Interviewee: At the moment, drugs are the biggest issue and I have seen it happen over the past six months. My clients have become more difficult because of ICE use. There was a time I had the highest percentage of ICE users of young people on my caseload. ICE takes over the young person's mind. I've had some really hard kids over the last few months.

In Sampson and Laub's life course theory, AOD users face a number of barriers to find pathways out of crime; this is because users often lack support from pro-social peers. For example, Schroeder et al (2007) studied a group of heavy

prolonged users. Results showed that alcohol inhibits desistence by obstructing individuals to create and sustain social bonds in employment and marriage. But a shortcoming of this study was a lack of explanation as to why people become heavy alcohol users. According to the National Drug and Alcohol Research Centre (2011), those who have experienced abuse tend to self-medicate themselves with AODs. In these instances, young offenders are in a cycle of drug use and offending to deal with the effects of abuse.

Interviewee: One of the biggest problems for youth is with serious drugs. You may get great gains along the way (in case management) and then all of a sudden, they are doing serious drugs; and then it goes out the window. Sometimes it is hard to draw them back in from that. Most of the time, you have to wait for them to stop (using serious drugs) before you can get them back into education or training.

Therefore, the decision to use drugs can occur for many reasons. According to the Australian Drug Foundation (2016), drug use amongst youth from rural regions is higher than youth from urban areas. For example, rural areas are now experiencing double rates of people who smoke daily, drink alcohol to excess and regularly use amphetamines. Similar debates in contemporary criminology also explain this phenomenon to be a result of social inequality and poverty (Jobes et al: 2004). This topic was also found to be relevant in understanding youth crime in Southern Tasmania.

5.2.5 Poverty

Interviewee: Youth offending is mainly stealing offences. Youth are coming from lower socio economic areas, they are disengaged from school, or their parents haven't been involved in their lives. Then I guess drugs can come into it. Their history of drug use in the family feeds the cycle of offending.

In criminology, the relationship between youth, crime and poverty has been well established. For Pain and Francis (2004), homelessness and street survival are significant factors why youth maintain offending. Youth who lack financial or adequate adult support are forced to steal to acquire money and material goods (Shulman, Steinberg & Piquero: 2013). In 2012, the total number of youth burglaries of homes, businesses and cars in Tasmania were 1,001, with an additional 406 car thefts (Tasmanian Police 2012: 31). Similar to these government findings, interviewees' identified children to be introduced into a culture of stealing by family caregivers at supermarkets at an early age because of poverty.

Interviewee: We work with a number of notorious criminal families. But primarily the families are engaged in criminal behaviour like shoplifting. The parents use the child to steal meat from the supermarkets. They put it in the pram and then flog it on Facebook for money. So those kinds of things are common.

The decision to use your child to steal is vexing. But this is why poverty can explain why this cultural norm exists amongst families living in long-term

financial stress, or in social isolation (Moore & Sween: 2015). To Jobes et al (2004), the reason for this is because rural areas are more likely to be exposed to increased rates of offending from a lack of employment opportunities. As well, youth unemployment in rural areas has been documented over decades and is identified to be higher than urban areas (Polk & White: 1999; Gabriel: 2002; Carvalho: 2015). Locally, the lack of opportunities in Southern Tasmania is still a systematic issue facing young people who do not want to pursue rural employment (ABC News: 2016b; Gadsby et al 2013: 16). Interviewees also identified this to be a reason why some youth offend.

Interviewer: Do you see the lack of employment opportunities to be an issue for offending here? My perception is that a fairly large section of the employment in (rural area) appears to be forestry and aquaculture. So if you are not suited to one of those areas, you could be stuck.

Interviewee: Yeah that is right. One of the kids I work with has just done a work experience placement in aquaculture and he did really well. So he may get himself a job over the holidays at Christmas time. But that's the thing. If that is not what you are interested in, there isn't a lot more down here. Hospitality has picked up a lot, but that is only a handful of jobs and it's not a big industry. I think when 'forestry' shut down 12 or 18 months ago, there were 52 families in the (suburb) area that instantly lost their income. So that had a huge impact on that area, which is even more isolated than (suburb). Then you get domestic violence, alcohol and drug abuse. So it just gets worse and worse and worse for the kids in those homes.

This opinion shows the real consequences of growing up in a household defined by poverty. In other instances, poverty can force young people to couch surf due to a lack of ability by families to support their needs. In most cases, homelessness occurs due to family relationship breakdown. Homelessness also creates additional issues for youth leading to ongoing violence and victimisation (Coleman & Farrell: 2012; Jordan: 2012 & 2013). On this topic, an interviewee shared a de-identified case study describing how poverty had affected the offending trajectory of a client.

Interviewee: I work with a guy who is from a criminogenic family, he lives in severe poverty. The family have the opinion that stealing is ok if you need what you are stealing and you are not hurting anyone else. The family are involved with other family networks that commit a lot of crime, drugs are a daily thing for them. A lot of these kids don't consider themselves to be on drugs if they're just smoking dope (marijuana). This boy tells a lot of lies about his drug use. He will say that he is only smoking dope, but he is actually smoking ICE. His mum will tell me that he has been smoking ICE with his dad. You know how crazy and weird that sounds? But that's what's happening. He has a 3-year-old son. They have already had the police out to their home; he has never really been to school. There seems to be a real disconnect between understanding pro social lifestyles and his actual day-to-day life.

From this example, the manner in which poverty influences crime is revealed by generational cycles of anti-social lifestyles. Arguably, in these situations there must be a sustained belief that your own situation will never change. This is why it is important to have support by the justice system to help young offenders. To

interviewees, social inequality in Australia was another reason why young people in Southern Tasmania maintain criminal lifestyles.

5.2.6 Victimisation

Interviewee: I believe that a lot of mental health issues come from stress and it goes back to the idea that they (young people) have missed out because of the way the system is run. Australia is unfair in terms of who gets the houses and who gets the jobs and who gets the money and who gets the opportunities.

Victimisation can be discussed in terms of both developmental and critical contexts. In developmental theories, young offenders have been victimised through poor upbringing, exposure to abuse and prolonged trauma (Steiner, Garcia & Matthews: 1997). But in a critical discourse, government institutions victimise youth through institutional bias and for non-criminal offences (Teague et al: 2008; White: 2002; Farrell: 2012). In these cases, youth are at greater risk of being further criminalised by the youth justice system for not being able to meet bail conditions due to their reliance on adults. Though this was not said to occur in Southern Tasmania, one interviewee explained how bail conditions are often a precarious situation, as at times conditions are beyond the means of youth to complete on their own.

Interviewee: A large part of my work is transporting them to court and to their undertakings. If I didn't get them there, they would have a black mark against their name. Because they wouldn't be able to meet their obligations, you have to realise

that these young people have chaotic lives and have no means to travel outside their immediate suburbs.

Policing is another area in criminology that identifies how youth are victimised through institutional bias. Police have been identified to criminalise youth for a number of reasons, including non-criminal behaviour, such as swearing (McNamara & Quilter: 2014), homelessness (Mitchell: 2012) and breaching curfews (Wilson et al: 2016). In one example, police often target youth culture to be deviant and respond with formal interventions. But the effects of unwarranted arrests have been found to cause long term harm into adulthood.

To Wiley et al (2013), youth who are stopped by police are at risk of criminal amplification. In their study, 2,127 high school students were surveyed on their experiences of being stopped by police. Results validated that youth who were stopped by police had higher rates of arrests, delinquency and deviant identity formation compared with youth who had no contact. These findings demonstrate the negative effects of policing on young people. But this was not identified to be the case for one interviewee who explained how police in Southern Tasmania are influential in diverting minor offenders from the youth court by helping young people avoid a formal conviction.

Interviewee: An admission to guilt in the court process is saying they are taking responsibility for their actions. There is no doubt about their guilt, but it may be overturned. So I'll give you an example, we have laws in Tasmania, police can have a young person moved on legally within 4 hours. It happens regularly, especially in

cases if there has been a disturbance, or someone has broken bottles on the ground; and because young people don't understand the complexities of the law, they think they haven't done anything wrong, they won't go, so they get arrested. It is only after obtaining legal advice they intend to plead guilty. It's then only by having a police officer attending the youth court from the early intervention unit that the matter can be withdrawn and instead be dealt as a police caution.

This view also reflects the problem of not having the EIU model in the other two regions of Tasmania. Though it is beyond the scope of this study, questions need to be asked regarding how the North and Northwest of the State provide the same assistance to young people without the EIU being present? Though, it is understandable that new programs are easier to test in Hobart (being the capital of Tasmania), but what does this mean for youth in other regions of the State? Are they being treated differently under the same legislation? Though these questions are beyond the scope of the study, arguably decisions to only resource an EIU in Southern Tasmania and not all three regions of Tasmania demonstrates how governance in Tasmania wants to be seen to reduce youth crime, while failing the needs of the most vulnerable (also see Garland: 2001).

In summary, this section has described and appraised the perspectives of youth justice professionals in explaining how they understand the issues of youth justice matters in context to criminological theory. Participants also revealed their understanding of local offending cultures and reflect their critical understanding of youth crime. This demonstrates how an occupational perspective (separate to government reports) reveals a deeper understanding to

the problem of youth crime more so than traditional government reports. The next section will discuss how the youth justice sector facilitates desistance by critically discussing the sector's ability to address the issues of offending through case management.

5.3 Case Managing Young Offenders

Practically, the youth justice sector engages young offenders in an administrative capacity, using a case management model and by referring youth to external services to reduce criminogenic needs. But facilitating desistance is a challenging task. A significant part of interviews was spent discussing the nature of working with young offenders and how desistance occurs. In most parts, interviewees identified the struggles of working with at-risk youth needing to re-build their lives. In these cases, desistance work is achieved through informal mentoring. This is because adult role models are not available to them, which in-turn makes practitioners throughout the youth justice sector pseudo-parents.

Interviewees readily identified that a part of their role was to fill this void in the lives of youth who are willing to engage in support. Sykes, Gioviano and Piquero (2014) also share this belief, identifying the importance of long term mentoring to facilitate desistance. But mentoring still occurs in a case management model due to legal, ethical and organisational requirements. But this approach alone cannot facilitate desistance. An important aspect of mentoring is how practitioners use their own personal abilities to connect with young offenders. In

consideration to these issues, the following section will explore how interviewees' case manage young offenders in Southern Tasmania.

5.3.1 The CHART Model

To Cunneen and White (2007: 293), case management is a model in youth offender management that places emphasis on the individual's needs to identify factors that contribute to offending. Case management is a collaborative model, which relies on communication between the youth and their case manager to identify realistic goals by utilising government and community resources.

Examples of case management for young offenders can range from: re-engagement with school, pathways into employment, therapeutic and recreational activities and advocacy. Theoretical elements of the case management model have also been discussed by a number of theorists and governments (Roberts: 2001; White & Tomkins 2003: 7; NSW Department of Juvenile Justice 2003: 6).

In one example, Gursansky, Harvey and Kennedy (2003) believe case management is structured on five phases, which are intake, assessment, planning, implementation and monitoring. Intake is the first stage of the initial contact with the client. The purpose of intake is to identify the client's referral and current eligibility. The assessment of clients is the second stage of case management and includes information gathering of the client's background. The purpose of assessment is to identify any potential risks to the client's immediate wellbeing. Case planning is the third stage of case management and should be

tailored to the individual needs of the client. The risk of not tailoring case plans to client abilities is believed to result in failed case management. The fourth and fifth stage of case management is implementation and monitoring.

Implementation refers to the start of the case plan, which then becomes a reflective process that is periodically monitored to ensure that current needs are still relevant and realistic.

In Tasmania, YJS has adopted the Changing Habits and Reaching Targets case management model (CHART) (DHHS: 2016e; DHS Victoria: 2010). This program is tailored to address the criminogenic needs of young offenders (see Appendix C). The program is based on twelve modules, consisting of six core and six discretionary modules that challenge previous beliefs that have influenced offending behaviour.

Figure 5.1: CHART Module Structure

Core Modules (6)		Sessions (16)
Introduction to CHART		1
1.	Mapping my offence	3
2.	Motivation to Change	3
3.	Thinking and Offending	2
4.	Problem-solving	3
5.	Lifestyle Balance	3
6.	Relapse Prevention	1
Discretionary Modules (6)		Sessions (12)
7.	Healthy relationships	2
8.	Violence	2
9.	Motor Vehicle Offending	2
10.	Drugs and Alcohol	2
11.	Living Independently	2
12.	Education and Work	2

(Adapted from the *Youth Justice CHART Workbook* [DHS Victoria: 2010: 2])

The CHART model has been adapted by the Tasmanian Government from the Victorian Department of Human Services (see Victorian DHS: 2016). The CHART model is based on ten phases: intake, assessment, client service planning, implementation, review, case closure, timeframes, young people on dual orders and supervision (Victorian DHS: 2016). These phases are general attributes of most case management models, which have been discussed by a number of theorists (Roberts: 2001; White & Tomkins 2003: 7). According to interviewees, the use of the CHART model is used as a creative way to assist young offenders to understand additional choices they have instead of committing crime (see Appendix D). In these cases, interviewees discussed their time working with young offenders to assist them understand alternative pathways to offending, which is largely based on individual ability to build rapport with clients.

5.3.2 Building Rapport

Interviewees believe for any case management to work, practitioners need to be able to establish rapport (see Stacey: 2001) and be relationship-focused (see Green, Mitchell & Bruun: 2013). These views are also shared by Bruce et al (2009: 25), who believe that relationship focused practice is key to engage young people in case management and is reflective of good youth work practices. This idea is supported by Martin (2003) who explains,

“Other professionals will normally form a client/professional relationship in order to deliver a service (counselling, education, or an outdoors experience). In contrast, a youth worker will see the relationship as a

primary goal, and use the service they provide as a context within which that relationship can be developed... The key difference is that counsellors or teachers will develop a relationship in order to help them do their job. For youth workers, the relationship is their job.”

(Martin 2003: 116)

Therefore, the focus on building relationships in youth work is why young offenders are more willing to engage with youth specific case managers who have spent more time with them on outings. This is one explanation as to why most interviewees appeared to value the ability to take clients on recreational activities. In these cases, intervention did not appear to be punitive as described in critical texts (see Muncie: 2008). But how does building relationships through recreation facilitate desistence? As described in Chapter 2, the turning points theory explains how positive experiences reduce the need for offending. In these cases, youth justice intervention can be a positive experience if case management is fun. Interviewees similarly explained a number of different ways how they engage with young people. In one example, an interviewee explained how engaging clients through recreational activities is a good way in which rapport is established.

Interviewee: Well, the first thing I do is hang out with them and try and form some sort of a trusting relationship. Ten pin bowling, horse riding, roller-skating; you name it; any sort of activity that they are interested in, or movies; that is what we do. So we spend a lot of time having fun with the kids, but like I said, it's a way to create a good opportunity to talk about other things.

But as young offenders are often involuntary clients, it can still be hard to get them engaged even with good rapport. This places more emphasis on agency resources to engage clients in mandated tasks that have been set by the youth court. In one example, an interviewee shared an experience of locating a client to complete a pre-sentence report.

Interviewee: I sometimes meet clients here in the office, but most of the time, we do location appointments. So we go to their homes, or meet them in places like Bridgewater Macca's, because it is easier for them to get there. I know of one worker who had to go to Franklin Square in Hobart, because it was the only place she knew the client would be. So she did a 'Pre-Sentence Report' in Franklin Square, because it was the only place she could.

The nature of case management for youth justice workers is reliant on unconventional problem solving skills to meeting the needs of clients who are either unable or unwilling to travel to meetings. This shows how practitioners in Southern Tasmania are dedicated in meeting their client needs even if they are not willing to engage. Therefore, creativity and problem solving were two attributes commonly identified within the interviews. But the emphasis on problem solving also reflected how agencies are under resourced. To interviewees, the lack of resources created additional strain on working with clients. One option identified to improve the current system was for the government to provide additional brokerage for clients, so practitioners could give bus tickets or purchase lunch for clients at case meetings.

Interviewer: What do you see to be the current shortcomings of the system? What would you like to see improved?

Interviewee: Some more funding, we can't have kids come in and see us and we can't even give them a bus ticket. We can't meet them and take them to a café and buy them a snack. I know it seems small, but for kids who don't get much at home and live in low socioeconomic areas, taking them to a café and buying them a cookie or something like that makes them feel so much better, because they have had something decent to eat.

Overall, case management across the youth justice sector is viewed to be working well. This is largely due to the individual abilities of the workforce being passionate about their role in the lives of at-risk youth. Shortcomings in the current case management model were largely identified to result from the lack of resources to manage youth on community supervision orders and for police and other caseworkers to work practically engage with clients. According to the NSW Department of Juvenile Justice (2003) and Bruce et al (2009: 27), case plans should focus on individual skills, decision-making, problem solving and leadership. To most interviewees, making case plans practical is an important aspect of facilitating desistance for young offenders. Arguably, the term 'practical' is broad, but to interviewees it refers to intensive support and promoting pathways into independence. As discussed, caseworkers act in some ways as pseudo-parents, when parents are absent. In these cases, practitioners' drive clients to appointments, support them in getting their identification,

advocate on their behalf, assist them in setting up a bank account and help them get job ready.

Interviewee: I start off with doing a lot of practical stuff. But there are incremental steps before someone can get their life together. I get them identifications, their birth certificate, work on their driver's license. We can get them a forklift license; we can get them a recreational boat license. Often I can improve things by getting the licenses in order to get them their own bank account, get them on Centrelink all that kind of stuff. It's so important. So they're starting from the same position most people are when trying to get a job.

These views reflect pathway research and desistance theories, which are interested in how best to support youth to desist from crime (Homel: 1999). But in these cases, youth would need assistance due to the realities of poverty and a lack of family support. Similarly, Cherney and Fitzgerald (2016) believe practical support is the most influential factor that sustains desistance. An interviewee also shared this view.

Interviewee: We have been working with this young person for quite a few years. We spend time with the youth every week at Tafe to give him additional support and assistance with travelling. The young person also has another support worker who helps with general life challenges and does recreational activities. We keep in regular contact and ask how things are going at Tafe to build the young person's confidence and keep an eye on any additional support needed because of classroom challenges.

Therefore, providing practical support in case management should not be undermined in youth justice. Increasing practical support in youth justice is able to facilitate successful case management plans. The benefits of providing support for at-risk youth are embedded in the Youth Justice Act 1997 (Commissioner for Children Tasmania 2013: 14). But due to current beliefs of the Tasmanian Government that have seen services closed, Tasmania police are now at the forefront of providing early intervention and diverting low-level offenders from the youth justice system.

5.3.3 Early Intervention

Interviewee: The younger the better.

All interviewees identified early intervention as a key strategy in reducing youth offending in Southern Tasmania. Though there is academic literature warning of the problems associated with early intervention in policing (Lopes et al: 2012; Wiley & Esbensen: 2013), interviewees viewed working with youth under the age of 10 years old to be warranted. At present, the Youth Justice Act 1997 allows police to intervene and work with children as young as 10 years old. Both the police and community conference facilitators also have active roles in working restoratively in schools and dealing with low level offending.

Interviewee: At the moment we run a program with twelve kids from the primary school and eight kids from the high school. So we do two days for each. One (day), I take the kids from the primary school, cause I figure if I can get ahead before they

get to high school we have a better chance of keeping them engaged. Some of the kids that I get from the high school don't engage, they don't respond to anything.

Partnerships between schools and the police have existed internationally for the last century (Watkins & Maume 2012: 280- 282). In these cases, police have predominantly held educational roles to inform students about public and road safety, as well as the danger of truancy and child abuse (Shaw: 2004). The aim of police involvement in schools is to build positive relationships between students and law enforcement in a neutral environment.

However, police in schools have not always contributed to better outcomes for at-risk youth. For example, in the U.S, police involvement has transformed from an educational role, towards a role of authority, which has increased the criminalisation of school behaviour (Petteruti: 2011; Eckholm: 2013). One explanation for this trend has been linked to an increase in schoolyard violence and the inability of teachers to manage students (Watkins & Maume: 2012). In these cases, student misconduct that used to be dealt with the school is now resulting in informal or formal police responses. These changes are seen to be criminalising once normal / deviant youth school behaviour.

By contrast, interviewees believe early intervention within schools by the police is restorative and is based on a collaborative partnership. It is also believed that teachers are no longer equipped to handle high needs students. Interviewees identified that police take due care when working in schools and focus on building positive relationships between the school, students and parents. Locally,

reasons for police intervention in schools has been due to social conflicts between students, which are serious situations that involve acts or threats of violence towards teachers, students and damage to school property.

Interviewee: There were two girls fighting over an incident and they were in the same class. So instead of suspending them, or moving them to different classes, I organised a conference with their parents as an unofficial formal caution. I had their parents and a psychologist at the school. I interviewed each party and had it all sorted. We worked out the problem. There were a few misunderstandings and they cleared that up in the conference and then they made an agreement and apologised to each other.

Examples such as these can be seen to be ‘normal’ schoolyard bullying, which does not realistically require the resources of external agencies if schools were adequately resourced by the State. However, studies have identified that bullying has been transforming into more serious behaviours, which has resulted in greater harm to victims (Smith & Brain: 2000). One reason for this is due to the rise in social media and how it has created new dilemmas to manage bullying in ‘real time’ (Schneider et al: 2012; Kyriacou & Zuin: 2015). One approach that was apparent amongst interviewees was to put additional resources into schools to educate new students in how to use social media in appropriate ways. This method is considered to be a preventative action opposed to a reactive response.

Interviewee: There are a lot of kids that are really depressed and going through a really hard time. Social media is huge in that. I deal with it at least once a week at

the colleges. So to combat that trend, I work hard in education at the start of the year. I get all the new students together and I develop a safety presentation, which deals with bullies and how to use social media safely. It gives students all the tips in a presentation, it's really good and I am also available to the students if they want to come and talk to me.

Though some interviewees felt early intervention strategies were being conducted with integrity, others felt it was not addressing the real problem facing chronic offenders through lack of governance. The simple explanation of this debate is that low needs offenders will naturally desist from offending with little or no early intervention (Gottfredson & Hirschi: 1990), but serious offenders need intensive and long term support (Farrington: 2012). Therefore, for early intervention to benefit high needs youth, long term support needs to be resourced and governed accordingly.

Interviewee: The major cause of offending is the lack of early interventions and the answer lies within a collaborative approach. But no government will ever commit to doing that, or sustain it. The lack of maintenance effort from government programs is the biggest issue that early intervention fails. They start really good, but the maintenance effort isn't continued and I mean, human effort, financial effort and ordinary board stuff. I would say the lack of early intervention is the biggest one cause why young people come into the youth justice system.

In summary, findings have demonstrated how early intervention strategies are currently viewed in the youth justice sector. Early intervention appears to

operate primarily from dedicated individuals with the conviction to see the work be completed at a high standard. The nature of the CHART model is similarly facilitated by the ability of caseworkers to build rapport with clients.

Shortcomings in case management are directed to the lack of resourcing in providing practical support for clients to attend appointments and to provide modest lunches. Though these findings seem small. It can encourage a young person to continue to participate in case management and sustain desistence. The following section will continue to discuss how youth justice is conducting desistence work.

5.4 How is Youth Justice Facilitating Desistence?

This chapter has revealed the characteristics of practitioners across the youth justice sector by identifying their pathways in the sector, their knowledge on youth offending and how they practice working with young offenders. Findings have demonstrated a high level of commitment to work effectively with young offenders' due to the difficulties associated with this cohort. The strengths of participants are at times a reaction to the limitations of resources to work with young offenders. This problem is argued to be a product of neo-liberal governance by the Tasmanian Government, which was identified by the increased dependence of staff to rely on personal attributes instead of well-resourced agencies.

For example as there is no detox facility in Tasmania for youth, youth that offend to feed their drug addiction will have greater problems to desist until they are

detained at AYDC. As well, the government has not resourced other diversionary programs other than community conferencing. This has led to a situation of frustration amongst some participants who believe recidivist offenders are given too many chances in the diversionary and court process because of the limitations of community conferencing. The current diversionary system has also been argued to result in young people not taking the youth justice system seriously, which has increased the prevalence of future offending and harm to the community.

Interviewee: The way legislation is at the moment and the magistrate who deals with the children's court, I think it is probably as far as it needs to go. Children are being given the opportunity to participate in conferences. In my belief, it has gone beyond that now and they should be in court. I actually think in a lot of instances at the moment they are giving to many opportunities

On the same topic, another interviewee shared how community conferencing has led to ineffective interventions, which identifies the need for additional referrals for youth who are not suited to conferencing.

Interviewee: One case that comes to mind involved two young persons. They were in the conference for stealing a car and driving at high speed. They were 13 and 14 years old. During the conference they kept smirking at each other. Everyone was saying to him 'you could kill somebody'. You could just see that he just wasn't taking that on. Anyway, I said to him 'can you just tell me one thing'? I said, 'would you go out and do this again'? And he went 'yeah'; and I said, 'even after everything

you heard today'? He said, 'it wasn't my fault, it was the other idiot that cause the accident'. I said, 'so even after everything that has happened, the fact that you crashed that car, you rolled that car, you are telling us that you would go out and do it again?' and he said 'yeah'. So I said, 'I am not going to sign this paper', because if I sign off on this conference and that little shit goes out next weekend and steals a car and kills somebody, where are we going to be'? So there is all that lovey dovey restorative process stuff, but then there is also the time where you have got to go 'nah this can't go through. This kid has got to go to court. Somebody has to look at this issue further. They have to, we can't sign this off.

This case study is of particular relevance to the group of youth who stole a car, drove it at high speeds and caused an accident that killed Sarah Paino (Tasmania Police: 2016a & 2016b). This is one reason why the Tasmanian Government is believed by some interviewees to be failing to meet the needs of the community by operating diversions on small budgets. From the research findings, the Tasmanian Government have created a justice system without intensive community support for recidivist offenders. This is why practitioner perspectives are significant to understand how youth justice works. Recent statistics from the government have identified the reduction in youth offending, but has not indicated how young offenders are rehabilitated on a day-to-day basis prior to them finishing youth justice orders. To Armstrong (2003), this is why the opinions from practitioners are important in youth justice matters, as they have insider knowledge that is influential to reform youth justice policies and practices for the benefit of the at-risk youth and future victims of crime.

In summary, this chapter has revealed that practitioners in Southern Tasmania have passion to help others. Interviewees have also demonstrated their in-depth knowledge of the culture of offending, which shows the integrity of an insider's perspective opposed to government reports based on program outcomes. But working with young offenders is challenging for many reasons. Narratives of practitioners showed how under-resourcing of the sector limits the progress of young offenders to rehabilitate. But this practice is inherent in the neo-liberal discourse that makes offenders responsible for their own rehabilitation. Therefore, why would the government fund rehabilitation programs, if they believe that offending is an individual choice? To continue this debate, the following chapter will analyse how community conferencing in Southern Tasmania is working under the Youth Justice Act 1997.

Chapter 6

Conferencing in Southern Tasmania

Interviewee: At the end of a conference, outcomes are put in place for the offender.

In Tasmania, conferencing is embedded in the youth justice system as an early intervention model in managing young offenders. This reflects the restorative values of the Youth Justice Act 1997 (DHHS: 2016b). An important part of restorative conferencing is its ability to involve the needs of the victim.

Community conferencing makes offenders face their victim in a closed circle, explain their actions and then listen to how their behaviour has affected the victim. This process contrasts to traditional court, in which youth often sit in silence whilst being represented by a legal practitioner. This is a significant difference between the two models. As described by one interviewee, the process of conferencing gives the offender the ability to be diverted to the youth court by successfully completing the conference and their undertakings after the conference has ended.

Interviewee: First of all, the conference must be successful to divert the young person from court. But to do that, they need to complete the undertakings. So it is imperative that the undertakings are followed up, but not by the facilitator. So a youth worker will be responsible to ensure the undertakings are completed in the timeframe. Youth justice then report to the police as to whether or not the undertakings were completed. Once the police get that information, they will file it as a completed conference, or they will refer the young person to children's court.

This narrative shows how non-judicial practitioners are involved in the conference process to help offenders complete their undertakings. To date, no research reviewed has identified models of post-conference work and how it is practiced. In criminology, conference research has previously focused on cost effectiveness, participant satisfaction and recidivism (Joudo-Larsen: 2014). The future development of conferencing has also been critically examined. For example, Wood and Suzuki (2016) believe any future development of Restorative Justice will experience systematic problems because of existing practices in the justice system. This is because varying definitions of Restorative Justice are misunderstood by justice elites and due to reforms needed to existing political, institutional and agency policies and procedures. Daly (2016), has also recently discussed how Restorative Justice is not a form of justice, but instead a mechanism of justice. These debates are reflective of the trouble governments have in getting Restorative Justice right.

Locally, Prichard revealed how the previous governance of conferencing in Southern Tasmania increased the number of low-level offenders being formally cautioned, as well as increasing the phenomenon of parental shaming (2004, 2007 & 2010). The Tasmanian Government conducted the only other report into conferencing in 2008 (DHHS: 2008). But this report does not contain any academic rigour. In response to the lack of local knowledge on this subject, the chapter will describe and analyse how conferencing in Southern Tasmania is working. The chapter will discuss four themes: how conferencing commenced in Tasmania, how practitioners prepare for conferences, why some conferences succeed and fail; and how post conference work is conducted. These themes have

not been discussed in any literature reviewed. The chapter will conclude with a discussion that identifies how the neo-liberal agenda has undermined the resources needed to practice community conferencing effectively as described in restorative theory.

6.1 The Beginnings of Restorative Justice in Tasmania

Restorative Justice did not develop in one single place (McCold & Wachtel 2002: 110). Western countries introduced Restorative Justice into legislation beginning in the 1970s and 80s (Braithwaite & Mugford: 1994; Nyp: 2004). The growth of Restorative Justice in State legislation has since occurred at a rapid pace with political bipartisan support (Roach: 2000). Left-wing politicians viewed Restorative Justice to be a good alternative in reducing the long-term harm imprisonment causes offenders. Right-wing politicians supported restorative reform due to cost saving benefits to the government (Roach 2000: 262).

The formal interest into studying Restorative Justice commenced with Braithwaite (1989) in New Zealand. Its development in Australia commenced in Wagga Wagga (Daly & Hayes: 2001a; Wachtel, O'Connell & Wachtel 2010: 15). But there is an absence in the literature on how Restorative Justice was introduced in Tasmania. According to interviewees, restorative practices and training had existed before the Youth Justice Act 1997. Findings indicated the introduction was due to a few select individuals who spearheaded the movement. The following section provides some clarification on how restorative work commenced.

Interviewee: A teacher had heard a police sergeant in New South Wales on ABC talk back radio speaking about restorative practices in 95' and he talked to me about it. So I had a talk with (name) and spoke to a school principal. We discussed if we could get the sergeant down to Tasmania to train some teachers? At the time, there had been some discussion about restorative practices at the police department. I was aware of this; and the police department sent Darren Hine at that time up to ACT to do a two-hour course on restorative practices. When he came back, he gave a lecture to all the inspectors. During this time, (name) was going to bring Terry O'Connell down from New South Wales to train some coppers. The Police Commissioner at the time was resistant and saw it as something that only inspectors should be doing. So I spoke to my Inspector who convinced the police minister we should train some coppers while Terry O'Connell was in Tasmania. So we 'back doored' the Police Commissioner, we managed to train 30 coppers and 30 teachers.

Interviewer: So you were there from the very start?

Interviewee: Yeah, they were all Sergeants and I was the only Constable. Once they knew I 'back doored' the Police Commissioner, they said I could never be part of the training. However, we still managed to train, it was two or three days training opposed to the previous 1 hour training.... Later, I was asked to provide the training that led to the development of a workplace-training program.... I got the first job at the Bellerive police station as a training officer. I took that on in May of 2000.

This case study demonstrates the political nature and the personalities involved in creating institutional change within policing to incorporate restorative practices prior to and after the introduction of the Youth Justice Act 1997. Bazemore and Griffiths (2003) believe the process of institutional change in policing is slow and is due to cultural norms of conformity. This case study also demonstrates these findings. Specifically, police hierarchy in Southern Tasmania and individual personalities contributed to slow change to introduce restorative practices for youth justice matters.

One example that stood out was the difficulties in challenging the police hierarchy without repercussions. In this instance, Restorative Justice was incorporated in Southern Tasmania at a faster pace due to the competition between police districts that wanted the lowest crime rates. Though the reasons for this motivation is difficult to analyse from the interview extract, it can still be inferred that police commanders wanted to lower crime rates in their local area. This can be presumed even if motives are altruistic for improving the safety of the community, or egocentric for district reports (see Tasmania Police: 2012).

Interviewee: In the early years, the youth justice model was hopeless because there was no consistency. At the time you had a sergeant in a country station who would apply thoughts about Restorative Justice with no consistent approach to what was happening in another district. So the superintendent said to me, "would you like to trial a model based on one person having the say in a district"? Very quickly we began to kick goals. We also had corporate management group meetings where we used to report to the district commanders. Soon after applying this model our

district was way ahead of every other district in terms of the outcomes of achievements with young people. When the police management looked at it, they decided to have one person citing every youth justice report and making the decision.

In summary, the introduction of restorative training and police held conferences in Tasmania occurred due to the passion of select individuals to better work with young offenders. The visit from Terry O'Connell in 1995 was a significant factor in training both teachers and police. From these humble beginnings, restorative practices in policing and the youth justice system have developed into mainstream practice. The current findings were not able to identify the progression of conferencing into mainstream practice. Nonetheless, community conferencing is the main diversionary model in youth justice in Tasmania. Currently, community conferencing involves a range of stakeholders that work collaboratively in preparing, attending and following up conference proceedings. The following section will describe how interviewees prepare for a conference.

6.2 Pre-Conference Work

Preparation before conferences is important for ensuring successful outcomes. A number of studies have discussed the consequences of failing to adequately prepare the offender, victim and other participants before a conference (Strang: 2002; Hoyle: 2012; O'Connell & Hayes: 2012). A less critical text by Wachtel, O'Connell and Wachtel (2010) walks facilitators through a systematic guide in how to conduct conferences. The text gives clear instructions on how to prepare

and talk to participants throughout the conference process. One shortcoming of this text (which is symbolic of most restorative literature) is that it does not discuss how youth are referred to conferences and what resources are available to facilitators to prepare attendees. In response to this gap, this section will discuss how conferences are prepared in Southern Tasmania.

In Tasmania, conferences are completed in a 3-week period. As a second tier response to youth offending, referrals for community conferences can take a number of pathways. Without going into all possibilities, referrals begin with an offence that is investigated by the police. From this point, the police conduct a series of checks to determine if the matter can be diverted with a police informal or formal caution. If the matter is too serious or the young person is a recidivist offender, the matter will be referred to a community conference. Referrals are made through the EIU at the Hobart Police station.

Interviewee: A file is completed and goes through several different checks with the station sergeant and an inspector. It then comes to me and through those checks; there will be recommendations to what course of action will be taken.

Once the matter has been referred to youth justice, the facilitator will be chosen and the case file will be emailed to them. It is then up to the facilitator to make contact with all stakeholders and arrange all the details of the conference.

Facilitators in Southern Tasmania are selected from their personal attributes and on a case-by-case basis.

Interviewee: The police will send through a file with the offences. I read the facts from the prosecution to see what the young person has done. If that child had a conference previously, I would see which facilitator had worked with them, so they can stay with the same person. If they haven't, I will read the file and will look at where they live. I will see what the offence was and then I will choose one of our three facilitators who I think is best suited for that young person. I will appoint that person and will put the file to finance for a contract. I will then email all that out to the facilitator as a referral.

For recidivist offenders, referrals to conferencing can be made by the youth magistrate as part of sentencing, or as a final attempt of diversion. These cases occur when offenders have failed multiple conferences and the matter has been referred up to the youth court. At times, the youth magistrate will decide to refer the matter back to another conference. This process is seen to give the young person additional chances to avoid a conviction. However, many interviewees thought this practice is overused and reflects the current lack of resources available in youth justice to manage recidivist offenders in the community.

Interviewee: I did a conference last week. The young person I was working with had 6 or 7 different files containing numerous offences. The youth had already been through the conference process on several occasions. The young person had no regard for any of his victims and had no remorse. As a result, the youth went to court and the magistrate referred it back to a court ordered community conference. So I think repeat offenders are given ample opportunity to participate in conferencing.

Other interviewees expressed frustration in setting up conferences. Repetitive challenges arise when making initial contact with offenders and their families, arranging suitable times for all stakeholders, convincing offenders and victims to attend and finding suitable venues. These tasks were identified to be overly time consuming, due to offenders and their families actively avoiding contact.

Interviewee: I will read the file and give it some thought; hopefully there are some phone numbers attached to the referral so I can start ringing the victims and offenders. If they do have numbers attached, sometimes they (victims or offenders) just won't answer the phone. So that might require you to go knock on their doors. Once you have a time and date locked in, you do an interview with the people involved. Sometimes it takes an hour, sometimes longer. Occasionally you might get one, which might take two or three visits. If the young person is not in a good mind-set, you need to go back and have another talk with them and reflect upon your earlier conversations.

Youth justice practitioners and the police also experienced the same experience facilitators had in attempting to contact offenders. One interviewee expressed how they convinced young people to attend conferences by arranging times around their mundane daily activities. This is interesting; due to the fact young offenders have already admitted guilt and agreed to attend the conference at the police station to avoid a conviction.

Interviewee: My primary objective is to try and arrange a time to get them to turn up. If one says Wednesdays are no good because that is shopping day, I won't

schedule it on a Wednesday. If I do, there is a high chance they won't turn up. It is equally important to schedule conferences around the victim's schedule, because I feel it has a much better impact on the offender if there is a victim present. So I try and accommodate them first and then contact police and youth justice to see their availability.

This interview extract highlights how community conferencing in Southern Tasmania is offender and not victim focused. This debate has been on going in restorative research and demonstrates the challenges of initiating restorative programs (see Shapland et al: 2004, 2006, 2007 & 2008). For example, making conferences offender orientated neglects the philosophy of incorporating victims as a strength of Restorative Justice (Braithwaite: 1989; Graves: 2016). In turn, victims attending a community conference need to be ensured they will not be re-victimised in the process.

Interviewee: I like to meet with the offender before I meet with the victim. I need to get a feel for that child, because I don't want a victim in a position of coming to a conference and being faced with a child who does not give a damn for what they have done. So I can either encourage the victim to come, or not come if I have concerns about the level of empathy of the offender. In those cases, I will actually pre-warn the victim if I think the offender doesn't 'give a damn'.

The task of arranging conferences at the convenience of all stakeholders can be understood to be a daunting task due to the multiple people attending. A facilitator therefore needs good problem solving abilities to find a suitable time

and location for everyone to attend to have a successful outcome. But for interviewees, accommodating the needs of the offender and victim above government workers was important.

Interviewee: It is very difficult to accommodate everyone. But my personal view is that we are the public servants and we should fit around the needs of the victim/offender, that's my perception.

Facilitators also found it difficult to convince offenders and victims to attend because of their parents. In developmental criminology, parental involvement in youth offending is a predictive risk factor (Farrington et al: 2001). In Tasmania, the nature of crime families and generational offending is viewed to influence the young person's lack of respect of the diversionary system. This phenomenon is also linked to the concept of parental shaming (Prichard 2004: 183-184) and anti-social values held by the parents (Kolvin et al 1988: 85).

Interviewee: I find the most challenging thing is dealing with the parents of young offenders. As a general rule they are not interested, because conferencing is seen as a police thing. They don't want to have to meet with me, they don't want to have to take their child to a community conference and they also don't have regard for victims. Often the parents don't see a problem with their child's behaviour. It's because of the inter-generational cycle. It's something they just don't want to deal with.

Unfortunately, the most reoccurring theme when discussing conferencing in Southern Tasmania was that it is under resourced. This theme continued to re-emerge throughout many interviews. Currently, there is no dedicated facility to hold conferences. But, to some interviewees having a single dedicated facility was not a good solution either. This is due to the nature of young offenders and victims living in rural regions and not being able to attend conferences due to financial hardship. At present, conferences are held in local government, community and private facilities.

Interviewee: I tend to pick various places. I pick neutral places, for instance the library or a neighbourhood centre. PCYCs have meeting rooms, which I regularly use. For country areas, I use country halls, so it just depends.

Concerns were also voiced regarding the difficulties in finding suitable facilities. A part of this discussion, the use of police stations for conferencing was raised. But there were split opinions amongst interviewees why police stations are both suitable and harmful as a venue. Currently, police stations are not used, as it is believed not to be a 'neutral' venue.

Interviewee: I struggle to find an independent venue. You can't use a police station and you can't use something that is near the victim's work place. It has to be neutral. So it's very limited. Adding to that, sometimes it is very difficult to get eight people available at one time, but when I do, I can't get a venue.

Other interviewees believed that police stations would reduce the problem of finding a suitable venue as well as building a stronger connection between the police and the community. Similar to this view, a study conducted by Strang et al (2006) finds that conferencing has been successfully operating from police stations throughout Australia and internationally. Other findings reported that there are more benefits of using police stations than community venues, specifically in rural areas that make it easier for youth and victims to attend.

Interviewee: We used to run the restorative processes out of the police stations, so they would have a restorative relationship with the community.

Another problem associated with community venues is the lack of privacy. This is because conferences are often emotional and loud, which makes the use of libraries problematic. Libraries usually have open designs and use glass partition walls. This is one reason why the public witnessing conferences was a topic of concern.

Interviewee: There are issues, especially with using a library. You may have police officers marching through with three or four people, so that is an issue. You also have people looking through windows (of the hired library room). I have had that happen to me before, especially at the Rosny library. Privacy is definitely an issue.

In summary, preparing for conferences is a demanding job. The lack of local research on the topic demonstrates the need for further research to assist governments in improving local systems to increase resources. As discussed,

there is evidence that conferencing in Southern Tasmania has challenges to practically deliver conferencing to effectively divert youth from recidivist behaviour and be a victim centred approach to justice. In this sense, conferencing can fail if victims are not satisfied with the conference outcome due to the behaviour of the offender. The following section will share de-identified case studies of successful and failed conferences to demonstrate if conferencing in Southern Tasmania is victim or offender centred.

6.3 Attending a Conference

Interviewee: We don't define our success with conferencing by desistence from offending. I think that would be unrealistic.

According to the 'Conferencing Guidebook' by Wachtel, O'Connell and Wachtel (2010), attending a conference involves all stakeholders coming together who have been affected by an offence. The conference uses a closed circle, which is facilitated by an independent person who introduces everyone, explains the rules and maintains appropriate dialogue throughout the process. In Tasmania, if a conference is successful, the matter is resolved, with no further action taken against the youth. If the conference fails, the matter is referred back to the Tasmanian Police EIU, youth justice and the youth court. According to interviewees, conferences fail due to the offender not presenting, a breakdown of communication, or the offender not being remorseful. The following section will discuss first hand experiences of interviewees of attending successful and failed conferences and their perception of why this occurred.

6.3.1 Successful Conferences

Interviewee: There are kids who will continue to offend into adulthood and spend time in prison. Conferencing doesn't work for everyone. But sometimes it's about making that young person stand up and say, 'yeah I am responsible for that'. So I think those conferences are the most successful, even though you can't change that young person's life.

Since its development, researchers and policy makers have been identifying the rates of successful conferences based on: lower recidivism rates (Bradshaw & Roseborough: 2005; Robinson & Shapland: 2008), higher participant satisfaction (Armstrong: 2012; Wagland, Blanch & Moore: 2013) and lower costs to traditional justice (Webber: 2012). For example, Rodriguez (2007: 366) believes the main benefit of conferencing is its ability to divert the offender from the court system. But, separate to these findings, most interviewees believed the main benefit of successful conferencing was how offenders gave genuine apologies. However, one interviewee also stated that victims rarely attend conferences in Southern Tasmania, which raises questions who the offender is saying sorry too.

Interviewee: I have never been in a community conference with a victim yet. The victim hasn't been involved once.

Interviewees expressed the problem associated with getting victims to attend is due to victim fear and anger towards the offender. To Umbreit, Bradshaw and

Coates (1999), there are problems specific to assault victims attending conferencing for the wrong reasons. Though victim participation will always be challenging, interviewees shared how restorative practices can transform pre-mediated perspective of the victim's family, who may be seeking retribution.

Interviewee: For me some of the best conferences I have had are with assault victims. It can be hard to hear the impact the assault has had on them. The victim's parents want blood, all they want is to see this kid and stare him down. Then you see them leaving shaking hands and they leave everything behind them. To me that is pretty powerful. The offender gets an idea of the impact they have caused, but generally speaking, we don't see that much.

The use of apologies is theoretically understood as a 'symbolic reparation', which is believed to assist the victim and the offender to heal (Mooney, Strelan & McKee: 2015). For example, Murphy and Helmer (2013) believe apologies are more likely to occur and be accepted when stakeholders are prepared. Their findings also showed that apologies are also indicators of offender remorse, which is also a strong indicator to reduce future offending. But what is less discussed in the literature is that offenders can often feel victimised during conferences. To interviewees offenders often become unwilling to verbally engage in dialogue when they feel threatened. Due to the limitations of the study, I was not able to identify why this occurs in Southern Tasmania. But according to Braithwaite's (1989: 100-101) theory of re-integrative shaming (RST), current practices of shaming in local conferences could be determined to be restorative or stigmatising. Nonetheless, findings indicated young offenders struggle to deal

with the experience of participating. Interviewees explained how the use of support people assists offenders to overcome their emotions and to reengage in the process.

Interviewee: The key thing is to get someone who they can identify with. So if it is a PCYC worker that they know well and they are at the conference they are not going to let them down. The kid is suddenly ashamed and the conference will start picking up, these are the tools. There might be a long lost uncle that has an influence over the kid. They can be hard to find, but there is nearly always some way of doing it. But sometimes, like with the Aboriginals, they rarely identify outside their cultural group. So if we have a member of the Aboriginal community there, the offender won't let them down.

The robust nature of conferences means that even emotionally heightened conferences can still result in a successful outcome (Harris, Walgrave & Braithwaite: 2004). But high emotions often occur due to the often-traumatised backgrounds of young offenders who have low self-control (Wolff & Baglivio: 2016). The problem then of dealing with high emotions of offenders is to identify have people there who can empathise with them. Empathy towards offenders was noted to occur locally.

Interviewee: Generally speaking, they go through the roller coaster of guilt, shame and empathy for the victims. They're sad and angry, but they stay on board.

In another view, some interviewees held beliefs that conferencing can generate empathy. The study into empathy development in conferencing is limited (see Komorosky & Neal: 2015). In my opinion, the notion that empathy occurs in a time frame of a couple of hours is difficult to accept, especially if the young person has experienced trauma and comes from a dysfunctional family. In stating this, I do believe conferences can be powerful, but the development of empathy develops over years and not in under funded government programs. This is because trauma has life long effects, resulting in high levels of aggressive behaviour and violence (Benda, Brent & Corwyn: 2002), which would not disappear after a conference.

This is also why high rates of youth with backgrounds in child protection are in youth detention for serious offences (Mendes, Baidawi & Snow: 2014). For example, trauma has been noted to inhibit the development of empathy and the onset of range of mental health illnesses and the development of interpersonal skills (Mental Health Coordinating Council: 2013; Kerig et al: 2016). To Hanson and Lang (2016), trauma informed practice is continually developing, but victims still require significant support over a number of years. The effects of trauma amongst victims of crime have also received less academic attention, specifically in how conferencing can reduce the harm of PTSD. Due to these factors, victims of trauma are often re-victimised in the justice system. This is because survivors of child abuse are correlated with high rates of youth and adult offending, AOD use, mental illness and personality disorders (Wright & Liddle: 2014; Christian et al: 2016). Conferencing is therefore at times working with offenders who have a range of psychological and psychiatric disorders, which contribute to their

inability to connect with others at a conference (Evans et al: 2016). Eight interviewees in total believed that empathy could be developed in a conference. I have selected one interview extract as an example.

Interviewee: I think the main thing is empathy. Once they see the damage they have caused, a lot of young people don't want to face what they have done, like broke into a house and stole something. They are not thinking about the victim, or what it has caused for other people. So I think to come face to face with the person you have harmed is incredibly powerful. It comes down to empathy, because they can all of a sudden feel that person's pain and it has a great deal of power in a young person.

In summary, the success of conferences is not based on administrative definitions. Findings indicated that interviewees believed the ability of offenders to participate and follow scripting of the conference was more of value than recidivism rates. However, conferences in Southern Tasmania are considered to be a failure if the offender did not show remorse for their actions, even if they participated. Subsequently, the findings suggest that symbolic reparation and taking responsibility is important in the Southern Tasmania model, but conferences fail for a number of other reasons, which will now be discussed.

6.3.2 Failed Conferences

Interviewee: Sometimes conferences fail because youth are belligerent at the conference. It's a huge problem. Some conferences fail because we haven't been able to tailor outcomes to suit their abilities.

Commencing interviews I thought I would be overwhelmed by positive examples of conferences. But I was to find there were also many examples of failed conferences. This trend identifies a work specific discourse amongst interviewees. Specifically, restorative training had led interviewees to identify the benefits of restorative practices, but when giving examples, failed conferences were readily discussed. These findings give insight into how conferencing is perceived by a cohort of the youth justice sector, as well as current shortcomings in the conference system.

Table 6.1: Examples of Conference Outcomes Provided in Interviews

Successful conference examples	9
Failed conference examples	16

The readiness of interviewees to provide accounts of failed conferences reflect that Restorative Justice does not always have the desired outcomes that restorative theory claims (Daly: 2003). Conferences fail due to a number of reasons. Researchers have identified these reasons to be contributed by: lay people facilitating conferences (Choi & Gilbert 2010: 221; Crawford: 2003), low participant satisfaction (Strang: 2002; Gerkin: 2009), the lack of offender remorse (Bazemore & Schiff: 2005), the victim's needs being neglected (Daly:

2006), offenders failing to complete undertakings (Umbreit, Coates & Kalanj 1994) and a lack of post conference resources (Wagland, Blanch & Moore: 2013).

To Rodriguez (2007: 359), the reasons why conferences fail is due to researchers using flawed methodology that distorts the impact conferencing has on offending. One problem contributing to this trend is from governments hiring untrained volunteers to facilitate conferencing who lack theoretical understanding into restoration and how undertakings ought to be decided. In one example, lay facilitators can make undertakings excessive for the offender. Rodriguez argues these issues are not discussed in result findings of many government reports, which contributes as to why conferences fail.

To Wood and Suzuki (2016: 158), restorative and traditional criminal justice are both incapable of addressing issues of social inequality and poverty. For example, social inequality and institutional bias in Australia is at the centre of why indigenous youth are over represented in conferencing and the criminal justice system (Cunneen: 1997; Blagg: 1997; Allard et al: 2010). This debate also extends to the general over representation of youth from disadvantaged backgrounds and the child protection system that make up the majority of peak recidivist offenders (Lee, Courtney & Tajima: 2014). This theme was similarly discussed to be a problem in Southern Tasmania, which identifies the inability of conferencing to address the causes of crime.

Interviewee: The issue of offending rates with child protection is a generational thing. There are families here that are very good at convincing young people into

crime. These kids are marginalised within society. Child protection carers aren't working with kids from a perspective of teaching them how to engage in the community, in a pro social context. Kids are not given opportunities outside the care system. They then become dependent on the child protection system. By the time they reach 14, 15 years old they are offending and into drugs. They're in complete survival mode; and all their connections are within child protection. They are all offending and they don't have social connections outside child protection. So that is what their life is. They eventually end up in Ashley or Risdon. You also find out their parents have also been in the child protection system.

This example, demonstrates why conferencing fails to address offending pathways. Conferences simply fail because governments are not willing to adequately resource diversionary programs to facilitate pathways out of poverty as part of a post conference model. This is how low cost diversions such as community conferencing are tokenistic to the real problems facing the youth. This may be one reason why youth in Southern Tasmania are not willing to engage in conferencing, due to the problems of living in poverty.

Interviewee: The conference failed because one family had just come out of prison. They didn't have stable accommodation. They just didn't turn up.

Similar examples from interviewees demonstrate the correlation between generational poverty, parental incarceration, trauma and AOD use in Tasmania.

Interviewee: The youth was 12 or 13 year old. His mum had a criminal history. His dad died of an overdose. His grandparents were alcoholics and had a history of family violence. The kid walked out of the conference, so it failed and it went back to court.

The issue of offenders walking out of conferences was a repeated explanation as to why conferences failed. This was associated with offenders feeling stigmatised, or having developmental issues. To Ford et al (2012), the long-term effects of complex trauma is a reason why young offenders are more prone to violent outbursts. The inability of youth to communicate their feelings was also relevant to why conferences fail in Southern Tasmania.

Interviewee: There was a situation where the young person was quite young, immature and angry. He was about 13 years old. He couldn't stand the conference circle; it was too intimidating for him. His communication skills weren't great and he didn't understand what was going on. There were a number of people there he didn't know. So he spat the dummy; he got angry in the middle of the conference and walked out, but I could understand why he did.

Interviewees also stated that at times, family members and victims have also walked out of conferences. Theoretically, these findings are associated with low victim satisfaction (Wagland, Blanch & Moore: 2013) and parental shaming (Losoncz & Tyson: 2007). Low victim satisfaction can be accounted by a lack of preparation by a facilitator, or due to an emphasis on conferences being for the offender's benefit.

Interviewee: There have been conferences that haven't worked out. I had a couple where the victim walked out. The victim felt the offender didn't give a shit. They walked out feeling more damaged then when they walked in. You feel like you have done the victim an injustice.

In an unusual case, an interviewee shared how a family member had to be removed from a conference. This example reveals how conferencing in Southern Tasmania is still resulting in parental shaming (see Prichard: 2004). Specific to this case, the heightened emotions that occurred was due to the parent's anger towards their child, not towards the failure of the facilitator.

Interviewee: I have had some conferences that have failed. I actually had to remove a parent from a conference; and let it be known, it was the mother of the offender. She was so ashamed of her son that she just wouldn't let it go, she just kept badgering and badgering him; and we were getting nowhere. So, I had to remove her.

Outside the emotional distress of conferences, administrative and practitioner shortcomings also appear to influence conferences to fail. These failures were stated by interviewees to occur due to a lack of understanding of the restorative process by offenders and victims. But in contrast to these views, one interviewee believed that sometimes practitioners get it wrong and perceive youth remorse incorrectly, leading to offenders being victimised in the conference process by practitioners there to support them.

Interviewee: I was involved in a conference that was quite interesting. He was an angry young man. But there was quite a bit of preparation on my part. I explained to him what the conference was all about, what the intent of it was and what his part might be. I explained that the offence would be discussed. He actually was very remorseful in his interaction with his mother, he normally spits at her. But he kept his anger under control, his communication was good and direct and he answered all the questions from my perspective. But right at the very end, a worker said, "I don't believe anything you have said". I thought, "oh my god! This is totally inappropriate". I was amazed, I just couldn't believe it. I talked to my manager about it. I thought "this is stuffed, this is not right".

In summary, attending conferencing in Tasmania has demonstrated a number of themes. There are notable challenges in Tasmania similar to other jurisdictions in how the application of restorative theory into practice is occurring (see Daly: 2003; Wood & Suzuki: 2016). There is a strongly held belief amongst interviewees that Restorative Justice is good, but at the same time examples of failures were readily identified. These failures have not been discussed past the need for additional resources and how under funding is impacting on the rehabilitation of young offenders and their victims. One area of concern was the inability of practitioners to provide post conference support, which was believed to lose all the momentum that the conference had built up. The following section will explore how post conference work in Southern Tasmania is being practiced.

6.4 Post-Conference Work

Interviewee: Undertakings are not addressing the problem. They are irrelevant. I struggle with that periodically. But I am passionate about it and I will keep on knocking until I get my point of view through.

At the end of a conference, the offender is given undertakings, which must be agreed to and completed in order for the conference to pass. Restoration to victims in the restorative process underpins the theory and practice of conferencing (Galaway & Hudson: 1990; Jenkins: 2006). At the end of a conference the offender apologises to the victim. This practice is known as a 'symbolic reparation' and is considered to be the most powerful restitution available (Braithwaite: 1989).

However, research on this topic has been mixed. Hayes (2006) suggests the offer of apologies may fall short of being restorative, as offenders may not be remorseful and consequently the victim may not accept the apology. Offenders also must pre-agree to follow the conference script, (as do all attendees).

Therefore, offenders can be compelled to give a verbal apology in order to be diverted from the youth court, without benefiting from the process. In these cases, post conference agreements are only completed to avoid further judicial reprisals, instead of benefiting the offender's needs. This belief was also reflected by an interviewee, who appeared to be quite authoritarian regarding the need for offenders to complete undertakings as a form of social control, rather than a process of rehabilitation and reparation to the victim.

Interviewee: Some young people think conferencing is a soft option. A part of the scripting of conferencing, we say, "if you don't complete your undertakings, you will go to the youth court".

Locally, interviewees expressed that symbolic undertakings were most common in the region, with verbal apologies given at the time of the conference and can account as their entire undertaking. Interviewees believed offender apologies were largely genuine, resulting in victims forgiving the offender. But in these discussions, one interviewee shared a case study showing how offender apologies were believed to be scripted and not remorseful. In this case, the victim was re-victimised during the conference.

Interviewee: There was a conference for an assault. After the conference, the young person, who was from a privileged background, was requested to write an apology, only a one liner! And in that apology the young person didn't even acknowledge the fact they did anything wrong. The apology consisted of 'oh well, if you hadn't told anyone I wouldn't be in trouble'. I was like 'that is not an apology'! But it was accepted as an apology. So the victim felt more victimised in relation to that.

To another interviewee, the use of apologies is sometimes not enough as some youth are not remorseful. In one example, a youth with limited cognitive functions was inappropriately referred to a conference. Limited cognitive functions of young offenders have been widely documented in developmental criminology (Greenwald: 2014). A problem with referring a cognitively impaired young offender to a conference is that they may have an inability to understand

the process (see Gimson & Trehwella: 2014). But regardless of who is referred to a conference, the intervention needs to be able to address criminal behaviour for it to be effective. Therefore, not being able to address criminal behaviour redefines conferencing to be punitive and not restorative.

Interviewee: I went to a conference with a young man who had very limited cognitive functions. The conference wasn't an effective tool for him. He attended the conference and after it was over, it was as if the whole conference hadn't even existed. To make it worse, no one followed up the agreed terms of the undertakings. It was a waste of time. He went through three conferences and it was the same every time. The problem was there was no follow up after the conference in terms of the undertakings.

Apart from apologies, further undertakings may be agreed to as additional reparations, which may include: participating in education, community service work, monetary compensation or counselling. These forms of undertakings are not supposed to be used as a form of punishment but as a form of rehabilitation for the offender and reparation for the victim (see Garland: 2001; Bazemore: 2001). One interviewee also shared this belief.

Interviewee: Undertakings are not only an apology to the victim, but they are also something to enhance the youth, whether that be education, or something to increase their social pathways.

But as it was detailed to me, undertakings do not always relate to the offender's interests, making the process punitive. To one interviewee, undertakings are often a waste of time, which reflects the lack of referral options available to YJS to rehabilitate young offenders. Adding to these challenges, alternative education programs in the greater Hobart area have been closed by the Tasmanian Government (ABC News: 2015). This was a source of frustration for interviewees who believe the current situation has subsequently created limited choices for appropriate undertakings.

Interviewee: Some conferences fail because we haven't been able to tailor an outcome to their abilities.

Other interviewees also expressed this belief, with most conversations raising concerns about the lack of options since U-Turn and TOOL closed. Whereas other interviewees had concerns regarding the lack of options available for youth from rural areas. In these cases, youth are forced to participate in undertakings that they have no interest in, which also raises the question, how do those governing the conferencing system understand the purpose of undertakings?

Interviewee: They asked him to get involved in the PCYC as part of his undertakings, but the young person had an antagonistic attitude towards the police and the PCYC. I thought 'oh my god this is not going to work'. So I said, 'well I will take him to the PCYC'. I wasn't entirely sure if it was going to work and it didn't. As soon as we got there, he started saying, 'I don't like the police', 'this isn't

my interest', 'I don't want to play basketball'. He wasn't sporting at all. But it was the only thing that could be done in his area.

This is one example of how conferencing in Southern Tasmania has become punitive by making undertakings more about post conference control than rehabilitation. But unfortunately this was not the only case study that demonstrated the inappropriate use of undertakings. As explained by another interviewee, a youth was referred to a program that involved adult offenders.

Interviewee: I was asked to help a young person after the conference in terms of community service hours, but I couldn't stay for the whole day. It was suggested that he got involved in the (name) program to rebuild a fence. He didn't engage in it. But the reason was the people in the program were real adult criminals. He didn't want to be involved, he stayed a while and then left. I only found out once I got there, but then it was too late, I had to go to my next appointment.

This finding identifies the limited amount of staff available to provide intensive support to offenders throughout their undertakings. The benefits of mentoring were discussed in the previous chapter, which was also a strength of the youth justice sector. But as demonstrated in this last narrative, the lack of resources in Southern Tasmania impacts on how practitioners engage with clients on a day-to-day basis. It also shows how practitioners at times make tough decisions when managing high needs youth. Apart from apologies, the use of monetary restitution is sanctioned as an undertaking in Tasmania (see Appendix B), but it is not viewed to be appropriate by interviewees. This is because monetary

reparations can contribute to conferences failing, as youth often cannot make the payments.

Interviewee: At the end of the day, most of the kids we are dealing with don't have the ability to pay, so why have financial outcomes in conferences? In the South, we look for anything that is suitable in each case. We focus on changing their behaviours. But Christ, we can't get adults to pay fines, so what hope do you have with kids and they're not even on Centrelink!

These concerns have also been raised in academic research, which identifies the low socio economic status of offenders (see Allard, Chrzanowski & Stewart: 2012; Shulman, Steinberg & Piquero: 2013). Similarly, it was explained to me that offenders agree to pay because they had agreed to follow the conference script. Therefore, offenders feel they need to agree to pay, when they realistically cannot. This is because youth have no income, or their family are welfare dependent and living below the poverty line. Therefore, monetary restitution is something that is not realistically possible for a youth to complete and should be only used in special circumstances.

Interviewee: A reason we don't use monetary undertakings often, is because it contributes to conferences to fail. They will offer to pay, but they don't have the money.

Even with concerns surrounding the use of monetary undertakings, concerns were still raised regarding the current system of payments through Service

Tasmania (Appendix B). One main concern was that youth do not have the means to travel to a Service Tasmania outlet. As well, some youth lack the ability to interact with government agencies without adult assistance. This problem was similarly researched by Thomas (2012) who identified how at-risk youth lacked social skills to contact their local council to arrange an appropriate size council bin. Whilst noting these concerns, interviewees explained how and when monetary restitution should be used.

Interviewer: Are monetary undertakings common?

Interviewee: They will be phased out by practice, not by legislation. If a young person rocks up to a community conference and causes damage, then you would ask what would you like to do? They would say 'I would like to pay for it'. You then say 'ok, when can you pay that by'? And they'll say 'well I have it in my pocket. I can pay now'.

Interviewer: Does the payment have to go through the Service Tasmania process?

Interviewee: No, if the young person has the money on them, why would you put it through Service Tasmania? The Service Tasmania process is convoluted. That is one reason why we don't use monetary undertakings often.

Another interesting narrative that arose during the interviews was the difference between how undertakings are practiced between the North and South of the State. For example, it was explained that in Launceston (the North of Tasmania),

monetary restitution was used as a regular undertaking. This was a concern for Southern practitioners, who believed there is currently a lack of consistency in how community conferences are delivered.

Interviewee: Monetary undertakings are common in the North of the State.

Common outcomes in the Launceston area are to give monetary outcomes and stretch the outcomes under the Act for 12 months. That doesn't happen in the South.

An additional reason why monetary undertakings are used less frequently in the South was because of the higher value of offender apologies. This cultural belief mirrors the views of restorative theorists that symbolic reparations to be the most powerful of all undertakings (Braithwaite: 1989). In one case study, an interviewee explained how a young person's willingness to complete a written apology had repaired the harm to not only the victim, but to other stakeholders both directly and indirectly involved in the offence.

Interviewee: The most important part of conferences is the apology. For example, I did one the other day. The damage was \$250, 000 and the outcome was a written apology to the local (organisation). He also had to write a letter about his reflections about what he did, where he is at now, how it has changed him and how it has affected the community. That letter is now going in school newsletters and the (organisation) newsletter to show how a young person who did something really stupid has now reflected and apologised. It shows that he understands the impact what he did. At the conference, the (organisation) guys were saying it's

going to make our members feel better even though this young person did something really stupid and put their lives at-risk.

Symbolic restitution is therefore a powerful tool. But, this higher belief in offender apologies can also create a discourse that undertakings should be cheap. The consequence of running conferencing with few resources is that it cannot address the structural causes of offending and social inequality, which is definitive of young offenders. Neglecting these issues also does not address the ongoing harm to victims by recidivist offenders. As discussed in Chapter 1, serious offences by youth occur gradually. Therefore, good intervention needs to occur early to reduce the risk of future offending. But arguably, low cost interventions cannot stop the progression of offending unless it can help the offender find alternatives to their current trajectory. This aspect is missing from the Southern Tasmanian conference system, which is also reflected by an interviewee.

Interviewer: How would you describe the resources available to youth justice in Tasmania?

Interviewee: If we were talking about making a difference, the post conference resources are really minimal.

In summary, the challenges facing community conferencing are not unique to Southern Tasmania, which exist both nationally and internationally (Vieille: 2012 Wood & Suzuki: 2016). Throughout discussing conferencing, many

interviewees expressed frustration towards the inability to deal with recidivist offenders. This is why I identify practitioners across the youth justice sector to be passionate and wanting to achieve the best outcomes for young offenders. However, the nature of the limited resources and referral options make their job harder than it needs to be. As well, the increased use of symbolic reparations is promising in the South. But, the difference in practices between the North and South of the State is concerning, considering Tasmania is a small State and practices should be standardised under the Youth Justice Act 1997. It also identifies a breakdown of communication and values between regional partners in how best to divert young offenders in a restorative model. The following section will discuss how Restorative Justice in Southern Tasmania is addressing the problem of youth offending.

6.5 The Effectiveness of Community Conferencing

The core concept of Restorative Justice is its ability to restore a sense of justice, restore harm to the victim and reduce future offending (Richards: 2014; Maruna: 2014). Internationally and nationally, the success of Restorative Justice by governments has been largely measured by increased participant satisfaction and lower recidivism rates (Van Camp & Wemmers: 2013; Poynton: 2013). This is also the case in Tasmania. For example, since its introduction in 2000, Restorative Justice has statistically lowered youth crime and youth detention rates (see chapter 5). This is one reason why interviewees largely support the use of conferencing, based on their belief in restorative theory over traditional court processes.

Interviewee: When I meet a child, I think, 'this is not going to have the effect it intended', but in most instances, I think it has a far better impact on a young person to come to a conference than to go to the children's court. In children's court they are virtually in there for two minutes, they don't have to say anything, they don't have to take responsibility for their behaviour. Whereas in a conference, they have to sit in a circle and take ownership of their behaviour.

But as demonstrated throughout this chapter, interviewees also expressed frustration towards how the diversionary system works. To some interviewees, Restorative Justice is inhibiting youth justice work for both offenders and victims, as it was believed young offenders saw conferencing as a soft option with little consequence. In these cases, restorative theory has not had the desired effect on youth, but why? One problem contributing to this difference between theory and practice was due to the way conferencing is 'overused' due to a lack of alternatives. The lack of alternatives in the diversionary system in Southern Tasmania (and arguably the whole State), has led the youth court to use conferencing for all young offenders (allowed under the current legislation) even if it is apparent they (youth) are not ready to participate. Over referring offenders to one program arguably reflects a broken system, as more offenders will continue to reoffend regardless of how many times they are referred. Instead, it would be more beneficial for a system to have multiple referrals and diversionary programs based on the offender's level of need. Conferencing would have better outcomes if some offenders (that do not show remorse for their actions) could first be referred to an alternative program, so not to re-traumatise victims.

Interviewee: There have been many cases where the offences have been quite high in terms of the risk factors involved in youth conferencing. They have brought in repeat offenders for conferences who don't have any social context outside of offending. So conferencing has very little effect, because the issues are bigger than a conference. The conference gives more context than the youth court. But it's ineffective. Having a conference on its own is not going to work with these kids.

A second reason why conferencing is believed not to be working is reflected in the cultural belief that some chronic offenders are 'untouchable'. This is because the youth justice system under the current Act is often unable to send recidivist offenders to AYDC. Consequently, chronic offenders who do not respond to conferencing have few other diversions available to them in the community sector. Though interviewee frustrations were not directed towards the Magistrate or the Youth Justice Act 1997. Instead, frustration was directed towards the Tasmanian Government which has closed community programs specific to recidivist offenders. This example reflects why the largest population of young offenders are from disadvantaged backgrounds and why Restorative Justice is unable to address the causes of offending (see White, Haines & Asquith 2012: 238). An interviewee also expressed this opinion.

Interviewee: My concern is how people try and talk them out of their offending. I don't see benefit in doing that, to me that process is not helping.

Without addressing the structural needs of offenders in diversions, community conferencing in Southern Tasmania will continue to have challenges in meeting

the demands of recidivist offenders. For conferencing to be effective it needs to provide additional supports to address the problems of inter-generational family abuse, drug use and trauma (Farrington: 2012; Homel et al: 2015).

Interviewee: I think a co-ordinated approach is the only way you are going to get any sort of traction (to reduce youth crime). Because what you are trying to do is break a behavioural problem, which is ingrained generationally, or even if it is not just within a generation, it is within the community. So the only way to break it (offending) is to have people on the ground within the community.

In summary, community conferencing is a second tier response to youth offending in Tasmania. Current limitations affecting conferencing is occurring due to a lack of funding by the Tasmanian Government in the context of a neo-liberal philosophy towards crime control. Like many other jurisdictions, the youth justice system in Southern Tasmania is working with a small cohort of recidivist youth, who have often experienced prolonged childhood trauma, neglect, early disengagement from education and long-term drug use.

Interviewees described these problems facing young offenders to be amplified by social disconnection and a lack of government funded pathways out of poverty. In response to these findings, systematic reform to the management of young offenders is recommended. The following chapter will continue this discussion.

Chapter 7

Improving Early Intervention Strategies

Interview findings indicated practitioners across youth justice are passionate in achieving the best outcomes for young offenders. Though practitioners are also passionate about conferencing in Southern Tasmania, findings indicate the scope of conferencing is currently limited in achieving its full potential. Instead of recommending structural reform to the conferencing system, this chapter will advocate some alternatives to the diversionary system to increase the options available to the police, youth justice and the youth court. This is because interviewees believe shortcomings in the youth justice sector are related to the lack of referral options in the community to manage young offenders. This is viewed to be a result of neo-liberal governance that has minimised services on the belief that young offenders are individually responsible for their rehabilitation. In response to these findings, interviewees have proposed the following policy recommendations.

- Improve case management for recidivist offenders
- Introduce additional diversions in youth justice
- Increase community services and post conference support

Building on the expertise of the youth justice sector, this chapter will discuss how better community support and case management through Justice Reinvestment can fund the introduction of a multi-disciplinary team model (MDT), the Ropes program and additional youth specific community based

services⁸. Where possible, recommendations will be supported by the views of interviewees, who have experienced frustrations in the system when working with young offenders.

7.1 Multi-Disciplinary Teams

Interviewee: In youth justice, the model of complex care was used for some years and it worked well. In the complex care model we brought all the agencies and families together. The group would meet and when the final decision process was a case plan, which the family was involved in. You can't expect to change those inter-generational crime families in a year or two. You really have to persevere into the next generation. It needs a real commitment.

A problem with case management in youth justice is that a range of agencies and key stakeholders can simultaneously be case managing the same young offender (Cashmore: 2011). This issue is of particular relevance for youth who are involved both in child protective services and youth justice (Mendes, Baidawi & Snow: 2014; Baglivio et al: 2015). For example, recidivist offenders may simultaneously be involved with referrals from the police, youth justice, child protection, and multiple social workers. In these cases, the line of who is doing what becomes blurred and is a result of inter-agency communication breaking down.

⁸ Justice Reinvestment is a concept that supports the transfer of funding from gaols to communities, specific cohorts and early intervention strategies. For recent discussions on Justice Reinvestment in Australia see White (2016) and Brown et al (2016).

In response to these problems, other countries have adopted single multi-disciplinary teams (MDTs) to manage clients with high needs. MDTs coordinate young offenders with one case manager, which reduces problems associated with case coordinating, by streamlining case plans. MDTs improve the quality of case information by having all practitioners operating on the same plan, which results in greater accuracy for pre sentence reports and client outcomes (Cashmore: 2011). To demonstrate its uses, this section will detail a MDT model from the U.K. and discuss how MDTs continue to have been previously adopted in Tasmania. This review will show how MDTs are suitable to be used with offenders with complex needs if the correct political governance is provided.

In early 2000, political shifts influenced youth justice reform in the U.K. The reform is linked to the labour administration getting into power in the late 1990's, which was due to the high profile murder and public outrage of James Bulger (Souhami 2012: 1). In response to this murder, the labour government promised to be tough on youth crime (Byrne & Brooks: 2015). From these influences, the transformation of the youth justice system in the U.K. took place, which saw the introduction of Youth Offender Teams (YOTs) (see Souhami: 2012).

In one definition, "Youth Offending Teams are multi-agency teams made up of representatives from police, probation, education, health and social services, and specialist workers" (Adler et al 2016: 66). Key features of YOTs are that they work under the presumption that young offenders are also victims. This ability to work with offender as victims is one reason why YOTs are viewed to work

within a restorative philosophy (U.K. Government: 2014). In turn, YOTs bring together the individual strengths of multiple agencies and streamline case management files to a central location.

YOTs in the U.K. also oversee local crime prevention programs, advocate for youth and keep in contact with youth in detention (U.K. Government: 2016). A key strength of the YOT model is how it is separate from the judicial system, which instead operates from local councils. This is seen to minimise the harmful effects judicial contact has with young people (U.K. Government: 2016). YOTs also maintain strong collaboration with judicial and NGO services in meeting the needs of at-risk youth to tackle both offending behaviour and the underlying factors that contribute to offending, such as health and family education (U.K. Government: 2016). This is why parenting workers are employed in YOTs, as they are able to support parents whose children offend, or assist teenage parents to care appropriately for their children.

However, when it was in its infancy, YOTs contributed to the net widening of first time offenders because of how the concept of risk was used (Byrne & Brooks: 2015). At this time, police could not give informal cautions, leading to the increase of formal referrals to YOTs (Byrne & Brooks: 2015). It was only when the labour administration came into their third term (after a government review of high youth detention rates) that systematic change occurred that saw the introduction of new targets to local governments to lower conviction rates of first time offenders (Byrne & Brooks: 2015). In response to these policy changes, youth offending dropped 75% in 2006 and youth detention rates reduced from

3000 in 2006 to below 1000 in 2014 (YJB: 2015a, as cited in Byrne & Brooks 2015: 5-6). These trends have continued in the U.K. with an additional 9% decrease in youth offending in 2014-2015 (Youth Justice Board: 2016). But not all regions in the U.K. are happy with the how YOT teams receive referrals. These concerns resulted in the region of Surrey, England abandoning the YOT model for the Youth Support Services model (YSS). The YSS is also a MDT model, but instead adopts the approach of working with all at-risk young people and not just young offenders. Therefore unlike YOTs, the YSS also works with non-offending youth who may be experiencing homelessness, AOD use, mental illness, trauma, neglect, disengagement from education and unemployment. The YSS can be conceptualised as a single agency for all young people experiencing hardship. To Byrne and Brooks (2015), the YSS ensures all young people receive the same services from the one agency, regardless of their entry point.

As demonstrated in this case study, MDTs are a robust model that deliver case management to clients with complex needs. This is one reason why the introduction of MDTs has been a debated issue for the Tasmanian criminal justice system. According to the Department of Justice (2010: 13-14), an MDT was recommended in the Tasmanian Government's 2010-2020 plan to reduce recidivism for adult offenders. The integrated offender management unit (IOM) stated multidisciplinary treatment teams (MTT) involve a range of service providers comprising of social workers, psychologists, mental health practitioners and AOD specialists to assist in rehabilitating and reintegrating offenders back into the community (Department of Justice 2010: 13). But as

described by interviewees, current practices in the inter-agency model at times inhibit good communication between agencies, resulting in inaccurate pre-sentence reports.

Interviewee: We have one young person who has 90 charges. But that young person has never actually set foot in court and we are talking serious offences.

Interviewer: What do you think is influencing the magistrate to not remove the young person from the community?

Interviewee: Pre-sentence reports are not accurate, the court is getting a very one-sided view, as opposed to talking with other agencies who may have contact with that young person... so education, police and everyone else who might be working with that young person. So what happens is youth justice sit and talk with that young person and they get their point of view, which can be quite tainted.

To Weaver and McNeill (2010), MDTs can improve outcomes for offenders by having teams that can improve their cognitive functioning and social circumstances through intensive support. MDTs also reduce service duplication, increase client information and minimise over-assessments and under-servicing (Department of Justice 2010: 14). From these findings, it becomes clearer that the MDT model is better equipped to deal with the complex needs of offenders than the inter-agency model. Therefore, why is it not being used? According to interviewees, MDTs had previously been used in Tasmania for case managing both young people and their families in both child protection and youth justice. It

was explained to me that MDTs had been highly successful by incorporating a range of stakeholders, across different sectors and were driven by strong governance.

Interviewee: Yes (MDTs) existed in child protection very strongly under the Child Protection Act in 1974, until the Act was incorporated into the Children's and Young Person's Act. That model worked particular well during that era. There were very few situations of concern regarding the resourcing of child protection and the management of child protection in the State. Overseeing that model was the child protection board, which consisted of the agency head of community welfare, the agency head of the law department, the professor of child health from the University and the hospital. There was also a senior social worker and child psychiatrist. They oversaw every case in Tasmania. So that model, even though it has the ability to be used in the current child and families legislation, it is not being used. So I am a strong advocate of that.

In this time, MDTs were said to have addressed serious abuse in families by bringing together a range of professionals and service providers to help minimise the chance of the abuse to reoccur. Similar to these findings, other case studies have also demonstrated how MDTs are able to work with families. For example, in Gateshead, England, the MDT model has been key to the success of delivering the 'Troubled Family Scheme' (Youth Justice Board 2015: 12). In this model, cases of child abuse were assigned to a single case manager, who then allocated and co-ordinated other practitioners to support the whole family deal with their current issues in a non-stigmatizing way. This approach was also

reflected in a case study shared by one interviewee on the benefits of the MDT model.

Interviewee: In one case, a young mum had very poor parenting skills; she also had a background of child abuse herself. Her partner was in the same boat. One of them fractured their child's skull at a very early age and the child was admitted to the RHH. The multi-disciplinary group came together to address that situation. We had information from the child protection social worker, hospital, child health system, paediatrician, education representative, youth justice and Aboriginal community representative and psychologist. They all came together and looked at a case management plan for that family. We looked at all the factors, including the extended family and what support was important to that young couple's life. We helped them rebuild their lives. We looked at the stressors within their family. So that was not unusual of what happened in the 80's in Tasmania around the multi-disciplinary model.

This example demonstrates the complex nature of child abuse and the problems inter-agency case management has to reduce the risk of re-offending. This is because models that rely on multiple case management plans create the problem for case managers heavily relying on inter-agency relationships to ensure client needs are met. But in reality, agencies have limited resources and separate case management plans. Due to these tensions, case managers who work with the same client can readily disagree on client needs. This has been noted to be currently occurring in Southern Tasmania, with one interviewee stating,

Interviewee: At the moment you might have a lot of agencies that are involved in a case plan, such as education and early intervention. But you don't need all those people as case managers; you just need one case manager. Otherwise the family has a revolving door of workers coming in and out and you'll lose them completely. That system creates the situation where families have to see this worker on this day then another worker on that day.

Interviewer: So having multiple case managers is an issue?

Interviewee: Yes of course. They (case managers) have arguments (with each other) because they have differences of opinion of where the case plan should go. What you need is to have one direction on the best possible information.

According to one interviewee, between 2000 and 2007 an intensive collaborative case management model also existed in youth justice. But during a literature review on this topic, no information could be found to support that a MDT model existed in Tasmanian policy. It is believed that multi-disciplinary practice was driven by the relationships of key figures in the sector and not by government policy. In this period, practitioners across the sector regularly had meetings to discuss an offender's progress. The family of the offender was also involved in these meetings to provide additional information about what is happening at home.

Interviewee: The multi-disciplinary model is a good idea. Going back to 2000 to 2007. Youth justice set up collaborative case conference model. It was held on a

Thursday once a month, the whole day was dedicated to collaborative case conferencing and each case was stipulated to go for one hour. For each young person; and they were the recidivist families; everybody had to be at the case conference that was involved with that young person. We had conversations how the young person was travelling and what supports were needed. You were all in the room together and everyone took on board the follow up stuff. Because the family can't do it all, the police can't do it all, youth justice can't do it, but we can do it together as a team.

Interviewer: What was the demise of the model?

Interviewee: Not sure, it just stopped.

In summary, MDTs have had success locally and internationally by providing streamlined support for young offenders and their families. The robust nature of the case management model is one reason why a multidisciplinary approach is suitable to the management of recidivist offenders in Tasmania. From this review, it is envisioned that current problems associated with the inter-agency model in Southern Tasmania will continue to affect the quality of pre-sentence reports and meeting the needs of recidivist offenders. Similarly, the concerns associated with inter-agency case management are also relevant to the problems associated with a lack of alternatives to conferencing as a first and second tier response to youth crime. In these instances, increasing options available to the EIU and the youth court can only be positive in the current system, which according to interviewees is struggling to meet the needs of offenders. To further

add to this discussion, the following section will discuss an alternative to conferencing to increase the options available to the youth court and the EIU.

7.2 The Ropes Program

One learns, however, from observing hearings that conferencing is not used in Victoria, the state with the lowest detention rate, and instead minor offenders are sent to climb ropes with the police. There are perhaps lessons here for other states and territories - namely, that it might be possible to save resources by being more tolerant and by giving even more chances to young offenders than happens at present (Travers 2010a: 111).

Across Australia, alternative diversionary models to conferencing are being used with equal success to reduce recidivism and build community partnerships in youth justice (France & Homel: 2006; Homel & Fuller: 2015). One diversion model is called the Ropes program and is currently used in Victoria, Australia as a formal diversion (Power: 2015). According to Victoria Police (2007) and Jordan et al (2012), the Ropes program is based on an inter-agency collaboration between Victoria police, the children's court and youth workers. The Ropes program is viewed to be an effective low resource intensive substitute to conferencing (Travers: 2010a). The Ropes program is believed to be beneficial to youth, youth justice and the police alike. The key strength of the program is how it builds relationships between the young person and the police through climbing ropes, which is seen to develop a young person's confidence in gaining new skills in a non-judicial environment (Victoria Police: 2007).

According to Grant (2008), Senior Constable Mick O'Meara developed the Ropes program in 2007. The course consists of a single day's participation. During the day, the youth completes a low and high rope-climbing course with the arresting police officer, which is supervised by a qualified Ropes instructor. The primary objective of the program is to challenge the young offender's negative perception of the police and courts, which is achieved by bringing the young offender and the arresting police officer together through a series of physical challenges. The experience of the program is believed to challenge the youth's negative experience of police, resulting in successful diversions. According to Smart Justice (2013), the Ropes course has previously had an 88% success rate in reducing recidivism in 2010. Though recent results on the Ropes program have not been found, Victoria still has one of the lowest rates of youth detention in the country, which shows how increasing early intervention strategies reduces recidivism.

According to Power (2015), Victoria Police (2007) and Grant (2008), to be eligible, the young person must be aged between 12 and 17 years of age and not be a serious or recidivist offender. The youth must agree to be cautioned by the police, or be referred to the program from the children's court. It is desirable that the police officer that arrested the youth is the one who participates in the course. When this is not possible, another Ropes trained police officer would attend. If successful, a certificate of completion is given to the young person and sent to the youth court and the youth would not be charged. The matter is then effectively closed. By adopting this approach, community policing is utilised to

assist at-risk youth to develop new skills and form trust with the police through community based initiatives.

To briefly highlight, the Ropes program day is structured on this basic plan.

- Introduction and Icebreakers
- Low Rock Climbing Walls Course
- Discussion on teamwork: being part of community, choice and chances, avoiding the adult justice system and consequences of actions
- Lunch
- High Rock Climbing Course
- Presentation of certificates

(Power 2015: 177)

However, the Ropes program has had some noteworthy shortcomings. According to the Victorian Council of Social Services (VCOSS), despite positive results, the Victorian youth justice system is under resourced (VCOSS: 2014). Particularly, early diversion programs are not available to all young people in the greater Melbourne area and surrounding rural communities (VCOSS: 2014). This problem is relevant for understanding the Tasmanian system, as Tasmania is a rural State with a low population (ABS: 2013). Therefore, youth in remote regions outside the greater Hobart may also experience similar failings to that of youth from regional Victoria.

Even with shortcomings, the strength of the Ropes program is the ability for it to operate within existing agencies and services in Tasmania, namely PCYCs.

Problems associated with delivering the Ropes program to regional districts in Victoria can be associated with the program using a rock-climbing centre. In Tasmania, this problem could be minimised by utilising PCYCs, as they are normally resourced with gymnasium facilities and exist in both metropolitan and rural districts. The Ropes program can also reduce the level of resources placed on the conference system, which requires a significant amount of time by facilitators to arrange all key stakeholders on a single day and time. Instead, the Ropes program only requires a single member of the police during their normal duties. Realistically, further resources would be required to train police and PCYC employees as Ropes climbing facilitators. However, these start up costs are viewed to be minimal compared to the youth justice budget and the costs of youth recidivism as described in the report by the Tasmanian Commissioner for Children (2013: 4).

Another key issue that separates the Ropes program from conferencing is that it does not involve the victim. But this can be a positive feature, especially in cases when offenders are not remorseful and may benefit from a separate diversionary referral that builds skills and positive relationships with the police. The reason why the Ropes program has been successful is not fully known from this review, but I would suggest based on other research that shows the benefits of at-risk youth engaging from recreational programs that there are other methods that can be adopted in Tasmania to divert young offenders. This topic will be further discussed in the following section.

7.3 Resourcing Community Services

Interviewee: The problem is with how long the government is going to fund these external organisations. Having external providers is a good thing, but not having facilities is a bad thing. Facilities need to be established by the government.

The issue of resourcing and a lack of services was a key theme that was directly and indirectly expressed by interviewees. Interviewees believed they are presently restrained with current resources to give practical assistance to their clients. These concerns were regularly supported with the examples that two youth programs had closed (TOOL & U-Turn), there is a shortage of accommodation options for youth on bail and that there is a complete absence of a detox and mental health facility in Tasmania for under 18 year olds. In one case, an interviewee shared a case study of a first hand experience of two youth committing suicide because they were unable to receive an appropriate level of care in the public health system.

Interviewee: I had a number of young people who I was concerned about that would harm themselves. In fact, one or two killed themselves and those ones who killed themselves were previously referred to the adult mental health facility because of our concerns about their mental wellbeing. They went to that facility and both of those young people were discharged because it was considered to be an adult facility and they stated we couldn't treat these persons because they were 14 (years old). So, they went back into the community and killed themselves. So there is no service for them. It is so frustrating.

The association of young offenders with trauma and mental illness has been known for some time, which is also indicative of why some young people medicate themselves with AODs (see Chapter 2). This is why young offenders often present with multiple risks, compelling the need for a State run detox facility. In a recent development, Mission Australia has just commenced building a 3 million dollar youth detox facility in NSW (Mission Australia: 2016). According to Wachsmuth (2016), the facility is set on a rural property and can treat up to 150 youth a year. The benefits of the facility are projected to complement an existing 12-week residential rehabilitation program and a 6-month transitional program to ensure youth have a better chance to break the cycle of substance abuse once transitioned to community (Wachsmuth: 2016). This example shows how innovation between the Government and the Non Government sector can assist in developing programs that will help the most vulnerable. Though, the Tasmanian Government does fund youth health programs (see DHHS: 2016d), the absence of a youth specific detox facility was still a concern to interviewees.

Interviewee: The thing that is needed is a proper drug rehab.

The absence of a detox facility in Tasmania is also symbolic of the lack of other youth specific services in Tasmania, such as regional bail hostels. With the exception of additional accommodation options that were recently established in Hobart (DHHS: 2013b; DHHS 2016f; Anglicare Tasmania: 2015), young offenders experiencing homelessness in Southern Tasmania still find it difficult to find a suitable address for bail. This is because there are no bail hostels in Tasmania. In

these cases, young offenders escaping violence, only have a few alternatives in the community, which are short term and operated by NGOs (see Anglicare: 2014). But this problem is not limited to Tasmania, it is also occurring across Australia, leading to many youth in detention having their parole rejected (NCOSS 2016: 3). Also youth from regional areas are more likely to have no alternative accommodation options for bail, leading to certain groups of youth in Australia being warehoused and over represented in youth justice facilities (NCOSS 2016: 2). But the inability of the courts to find suitable bail options for at-risk youth is not the fault of the young person. Accommodation options still need to be available for offenders who are unable to return home, as to neglect this aspect is placing youth at further risk. This is because some offenders have been abused and may be at risk of suicide or committing further crimes. To Bailey (2003), the inability of the justice system to address social inequality is one reason why some offenders find themselves in a cycle of homelessness after they have been released from detention.

Interviewee: These kids are sensitive to the trauma backgrounds they have come from. They need to have education and housing. There definitely needs to be greater options for housing. We always get that feedback from both female and male clients. They find acquiring accommodation very challenging.

To further conceptualise this statement, a first hand case study from Australia explains how violence and abuse in the family home can lead to homelessness. “Two things happened when I turned 12, my father who used to beat the hell out of us left home and the other thing that happened is I started using drugs... One

of my friends said, 'here, try this it will make you feel better', and it did. When I turned 13, my mum found a new partner who lived at home with us. He raped me regularly and abused my younger sisters as well. I was only 13. He also used to beat mum up and it was hell on earth. For about a year I suffered through it, but when I was fourteen I couldn't take it anymore, so I said to mum 'You have to get rid of this guy, either he goes or I go.' Mum chose him and I landed on the streets" (Rebecca's Community: 2016).

Stories such as these show how violence against youth is not something that can be easily disregarded when questioning the effects of trauma. Rebecca's story symbolises the horrific manner in which some children are treated by their caregivers, which can also lead into drug use, truancy, homelessness and offending (Perlman et al: 2014). This is why providing appropriate services based on need is important in the delivery of any youth justice system.

Interviewees also expressed concerns regarding the lack of Statewide services for young offenders.

Interviewee: If they are in Ashley's and they are getting education and other activities in meeting their thrill seeking needs like going rafting, bushwalking or climbing; that is replacing the need to steal cars. But what's in the community to replace that? TOOL and U-TURN have closed down. They were non-government; and they were only in the South. There are no facilities in the North West and North of the State. So we need to be serious about those things, even though they're expensive.

The practitioners interviewed for this study accepted that the Tasmanian Government funds many services for young offenders (for example see Save The Children: 2015, 2016 & 2016b). Their complaint was that, despite these services, there are still large gaps in service provision for vulnerable youth both in and outside the youth justice system that focus on pathways out of poverty. Nugent and Schinkel (2016: 8) have also discussed the benefits of these programs. Their findings indicated, youth who were able to engage in post release services, were more likely to desist as they lost contact with their previous peer group. This finding reflects the relevance of desistance theories that show how peer groups are influential in the onset, maintenance and desistance of youth offending (Maschi, Bradley & Morgen: 2008). Therefore, funding services dedicated to re-integrating offenders can give them a better chance to desist from crime. But as these options are limited in Tasmania, the current system places more emphasis on youth to rehabilitate themselves. This concept was also reflected by one interviewee who explained how offenders with high needs and disabilities do not have many options left in Southern Tasmania.

Interviewee: Usually peer and family association is a big one. If they have got some kind of intellectual disability, that's hard, because there is a lack of services. We had programs like 'Second Chance' that stopped being funded a couple of years ago. U-Turn has now also stopped. So I don't know what education is going to replace that gap for the kids who have a disability of some kind, they're not suitable for school. I don't think there are enough programs for that group. We have these older-young offenders who are hard to navigate, especially if they come from families that are

welfare dependant. It takes a lot to overcome those barriers. They also have drug issues.

Though I have made it clear through this study that diversionary systems need to be well resourced, I also believe that pathways programs do not have to be expensive to be effective. Grass root programs also have a place in delivering services for at-risk youth. As demonstrated by the Ropes program, intervention can be based on recreation and mentoring. These types of programs do not challenge social inequality, but they do assist youth to get motivated to achieve their goals with intensive support. For example, according to a report by Youth of the Streets (2015), youth struggling to attend school increased their attendance with the assistance of a recreation program. The program called 'Fitness Beyond Barriers' in Griffith, Australia picked up youth from their homes at 6am to play sports and have breakfast, before being taken to school. The practices of the program are based on the belief that youth from disadvantaged backgrounds often need additional assistance to attend school. The program motivates youth to attend school regularly through recreation and healthy breakfasts that gets youth energized by 9am for the school day. Since its introduction, the 'Fitness Beyond Barriers' has seen school attendance increase by 94% for youth that had taken part in the program. Therefore, programs that provide practical support to youth from disadvantaged backgrounds can help retain at-risk youth in school by focusing on practical day-to-day support. This is why pathway programs do not need to be expensive; they just need to fulfil the practical needs of young people, so they can engage at the same level as other children their age.

Another example of inexpensive practical support is through the use of mentoring. The use of mentors in youth justice rehabilitation is important, as young offenders often do not have stable pro-social adult role models in their lives (Bijleveld & Wijkman: 2009). In these cases, adults and caregivers have been abusive, resulting in the adverse trajectories of young people into crime (Teague et al: 2008). On the other hand, mentoring young offenders lowers recidivism by supporting youth into independent living, education and employment (Sykes, Gioviano & Piquero: 2015). To DeWit et al (2016), this process requires more assistance for youth at the beginning of the support, but less when they become more independent. In a recent case study from Youth off the Streets (2016), a young person requested a mentor to assist with transitioning to university. The girl requested assistance because she didn't have a driver's license. The girl had come from a disadvantaged background and had no means to get a driver's licence without someone to help her learn how to drive. As a result, 'Youth off the Streets' put the girl in contact with a suitable mentor who assisted her to get a driver's licence. As demonstrated by DeWit et al (2016), this example demonstrates how mentors can be required more readily at the start of a working relationship, with less support required as goals are reached. This is why mentoring programs are valued to provide both practical and emotional support for at-risk youth.

Locally, Whitelion provides a similar mentoring program based on a volunteer model (Whitelion: 2016). The application process for this position covers many requirements in order to be eligible, as well as identifying who the mentor would be suited to work with. Though this program has had recent support from the

Tasmanian government (Whitelion: 2016), this example reveals the lack of political support to fund dedicated mentoring programs for at-risk youth. This is due to mentoring positions based on a voluntary capacity. In these instances, mentoring would not be as consistent in comparison to a paid position. It also identifies how youth work is still under valued in facilitating the process of desistence.

In summary, when considering models of best practice in diverting youth from court and rehabilitation, the benefits of community conferencing and the restorative model can only do so much. This is because conferences are over in a couple of hours. However, young offenders may have been abused, which creates the dilemma that short-term interventions are not going to be long lasting over the effects of trauma (Snyder et al: 2016). This means conferencing in its current form in Southern Tasmania is unable to address the wider problems facing young offenders. Arguably, for diversions to be more effective, additional programs and interventions are needed to assist youth to transition back to education, or away from negative peer influences. Currently, diversions in Southern Tasmania are missing alternatives that other jurisdictions in Australia have, such as the Ropes program in Victoria, or programs dedicated to reducing truancy in NSW. This view is also shared by criminologists who challenge simplistic notions that desistence can simply stop (see Chapter 2). Instead, desistence is more likely to occur through turning points, such as employment, and community programs that build skills with the help of dedicated mentors (Uggen: 2000). But as discussed throughout this chapter, limited services exist in Southern Tasmania, which is why interviewees believed that increasing

community programs was a positive step to improve outcomes for young offenders.

7.4 Policy Recommendations

How is it possible to improve policy and practice? The following recommendations follow from the literature review (chapters 1 to 3) and from interviewing practitioners across the youth justice sector in Southern Tasmania.

- The government investigates options to increase pathways out of crime in disadvantaged communities by focusing on Justice Reinvestment strategies. For example, interviewees were passionate about establishing alternative education programs for at-risk youth who are not suited to mainstream education. These programs should incorporate nationally recognised training standards and pathways into employment. (Refer to section 7.3).
- The government conducts new research into Tasmanian ‘crime’ families to find solutions to break generational cycles of offending, by working collaboratively with families to find mutual solutions to reduce chronic offending of their children. (Refer to section 5.2.1)
- The government investigates the benefits of providing youth justice clients with bus tickets and meals during case management meetings. This recommendation is based on the belief clients are often hungry and have difficulties travelling to appointments. (Refer to page 182).

- The government investigates the feasibility of establishing a Multi-Disciplinary Team as an additional support model for the peak recidivist offenders. As discussed, a MDT aims to address the problem of young offenders having multiple caseworkers across agencies contributing to miscommunication and inaccurate pre-sentence reports. It is recommended that all youth, who are released from AYDC, should automatically be referred to a regional MDT. All other referrals should be made through YJS and the youth magistrate's court as an additional form of bail conditions under the Youth Justice Act 1997. (Refer to section 7.1).
- The government establishes regional bail hostels in all three regions of the State to assist young offenders to re-establish connections with community, education and employment prior to release from detention. (Refer to page 142)
- The government increases funding to the Tasmanian Police EIU. It is recommended that the EIU be established in all three regions of Tasmania. It is also recommended that all new police recruits receive Restorative Justice training to bridge the cultural division between restorative and non restorative trained police. (Refer to section 4.2.1)
- The government establishes a detox facility for youth. The absence of a detox facility has subsequently made AYDC the only facility for under 18 year olds in Tasmania to detox. To note, the current 'Live Free' service requires youth to already be detoxed prior to being accepted. Furthermore, it is recommended that the government withdraw funding from 'Live Free'. 'Live Free' requires clients to

participate in mandatory Christian religious practices in order to be eligible. This is a discriminatory policy based on religious beliefs and actively denies non-Christian youth who are seeking treatment for AOD addiction. (Refer to section 7.3 and page 166).

- Considerations should be given to introduce the Ropes program as an additional model for first and second tier diversion in youth justice. The Ropes program is suited to Tasmania and could utilise regional PCYCs as Ropes facilities. This is because PCYCs are regionally available and are resourced with gymnasiums. Additional training would need to be provided to police, which is suggested to commence within the EIU and authorised officers. (Refer to section 7.2).
- The government investigates current issues facing community conferencing. Three areas of concern are: the challenges facilitators have in making initial contact with offenders and their families, the emphasis on offender engagement over the needs of victims; and a lack of funding to resource post-conference work. It is also recommended that a longitudinal study be established for offenders and victims involved in conferencing to determine its effects on rehabilitation and desistence. (Refer to sections 6.2 - 6.5)
- The government investigates the differences between police held and community conferences. Research indicates that police held conferences can at times be more authoritarian than community conferences. This difference is indicated to occur through police culture, but is not in line with restorative theory, or how community conferences are conducted. (Refer to page 153)

- The government investigates the types of undertakings being used throughout the State. One area of interest is the differences in the use of monetary undertakings between the north and south of Tasmania. The north of the State is identified as using monetary restitution more frequently; this is problematic for youth who have no income and who are from welfare dependent families. (Refer to pages 221-226).
- The government investigates the feasibility of additional funding to post conference support. Current research indicates that post conference support is limited in Southern Tasmania, which is seen to inhibit the momentum of offenders to make change after successful conferences. It is recommended that consultation is held with JLD Restorative Practices, TasPol EIU and Save the Children to identify where support is needed most. (Refer to section 6.4 and page 225).
- The Government investigates the use of Restorative Justice models and conferencing in the adult justice system. Restorative Justice is not a youth only theory and has benefits for all victims and offenders alike, regardless of age and offence, specifically for pre-sentencing and pre-release. (Refer to section 1.9).
- The government incorporates the narratives of practitioners in future research to improve current knowledge of frontline work and youth justice matters. (Refer to pages 12 & 13; section 3.2).

Chapter 8

Conclusion

This chapter will provide final considerations towards the most significant findings of the study. Findings have demonstrated the benefits of using qualitative research methods to study criminal justice settings. Without adopting this approach, the insight and experiences of youth justice professionals would not have been revealed. Practitioner accounts have not only shown the limitations of the current system, but also the complex backgrounds of young offenders and local offending cultures. Other revelations have exposed how recent changes to the Youth Justice Act has reduced rates of youth crime, but have still failed to address the regional problem of generational offending. The challenge for governments then is to find ways to deal with the underlying causes of offending by addressing the problems of social inequality. The following sections will continue to discuss these findings and conclude that in order for current shortcomings of the YJS to be resolved, the Tasmanian Government needs to invest further in disadvantaged communities to create pathways out of crime.

8.1 The Benefits of Using Qualitative Research

Methods to Study Youth Justice

The thesis has explored a number of topics, which have been possible through adopting a qualitative approach to data collection. Even when considering the practical problems of gaining access to practitioners and not being able to

conduct ethnography or interview young people, interviewing provided insight that quantitative methods would have missed. For example, the reason why a survey was not used to collect data on practitioner backgrounds was due to the concern it would miss information that was not part of the survey questions. In hindsight, this was a good decision, as the information provided by interviewees regarding their professional pathways to work with young offenders was a rich and diverse topic. Likewise, the decision to start with interviewee backgrounds aided the knowledge of how Restorative Justice was introduced in Tasmania. To date, the history and practical character of these occupations have not been addressed by previous studies.

Secondly, by avoiding quantitative methodology, I was able to establish meaningful rapport with participants to increase the number of participants for the study. This is important for criminologists studying criminal justice settings, as researchers are often excluded from insider information because of institutional policy, procedures and culture (Copes, Tewksbury & Sandberg: 2016). This barrier was apparent to me when I attempted to make initial contact with potential participants, as my original emails were largely ignored because participation was viewed to be extra work. But once I was face to face with interviewees, I was encouraged to either contact certain people or was able to acquire another immediate interview.

A third benefit of adopting a qualitative approach was to demonstrate a different way to study criminal justice outside the dominant discourse practiced in government reports. The ability to explore research topics as they present

themselves enabled me to discuss the topics that were most significant. In my study, the insider perspective of practitioners revealed cultural concerns of how it was often difficult to help at-risk young people due to the lack of community referral options. This was particularly apparent to interviewees commenting on the practices of the youth court that re-refers youth back to diversions they had previously failed.

Interviewee: The youth had 6 or 7 different files containing numerous offences and had been through conferencing on several occasions, the youth had no regard for any victims, no remorse; and for that reason, the youth was sentenced to court. But the magistrate referred it back to a court ordered community conference.

Information relating to failed conferences is recorded by the Tasmanian Government, but was not found when I conducted my literature review. Instead, only rates of offending are available through national statistics, but this is an incomplete explanation as to why youth crime has decreased. This is because not all crimes are reported. This is one reason why interviewees had strong beliefs that some young offenders should not be given any more chances, as they are perceived to have gotten away with more crimes than what they have committed. This is how qualitative research in criminology further aids the analysis of statistical data by determining local offending cultures and thereby understanding the real causes of crime and subsequently the real solutions to reduce offending.

8.2 The Culture of Youth Offending in Southern Tasmania

From my previous experience working in youth crisis accommodation, I expected to hear that young offenders came from disadvantaged backgrounds. Arguably, most people would also presume this. But by studying the occupational discourse in Southern Tasmania, findings revealed additional factors that I was not prepared for, which was the problem of crime families. To my surprise, interviewees believed that these families are to some extent 'untouchable', due to the difficulties in prosecuting the patriarchs and matriarchs who instigate minors to offend.

Interviewee: A lot of young offenders come from very dysfunctional backgrounds. Their families are involved in criminal activity. There is also a lot of homelessness and drug issues. These families don't value education and have different socio-economic values.

These beliefs also showed how poverty is a problem in Southern Tasmania and how entrenched generational poverty creates illegitimate pathways to secure income through offending lifestyles (Cunneen & White 2007: 73). Arguably, the effects of growing up in these environments creates cycles of abuse, which also shows the difficulty for the youth justice system to reduce offending when the risks are in the family home.

Interviewee: All my clients come from destroyed homes. I can't think right now whether any of my clients have come from a functioning family. I don't think there is personally one on my caseload...I look at the families and what I see is damaged people who are broken.

But, as described in Chapter 6, not all young offenders were identified to be from dysfunctional families. In these cases, desistence work was still challenging because the current system lacks alternative education and other community services for high needs youth. This is why alternatives to conferencing that are based on good governance and practical support are valued in this study. As described in Chapter 7, pathway programs can be low cost and still be properly resourced to reduce truancy and provide assistance to disadvantaged youth through mentoring.

As well, findings have revealed how drug use is common amongst young offenders in Southern Tasmania. Practitioners believe alcohol and drugs sustain offending lifestyles, which is also reflective of the literature in developmental criminology. However, practitioners were not in agreement on what drug was most problematic. To some interviewees the most destructive drug was ICE, whereas others believed it was alcohol. According to a recent study, ICE use amongst adolescents has increased in recent years (Kozaki: 2015), but all substance use by adolescents is still considered to result in serious offending (Delisi et al 2015). Though regardless of which drug was of most concern, all interviewees believed that a detox facility is needed in Tasmania.

Peter: I think there are a couple of things that are lacking within Tasmanian Government structures. There isn't a secure mental health facility or a secure drug rehabilitation facility for young people. If both of those facilities existed, it would reduce the amount of young people incarcerated, because that's what's driving their offending.

Therefore, what seems to be typical about criminal culture in Southern Tasmania is social disadvantage and AOD abuse. Practitioners rarely discussed specific crimes, which perhaps shows an occupational discourse concerned with the causes of crime and not what actual crimes are being committed. However, it could also be surmised that practitioners were withholding these details. From my experience of interviewing this does seem unlikely. For one reason, serious offenders are excluded from early intervention and the conferencing system; and secondly, practitioners were largely quite open to share their views and de-identified case studies, knowing that ethical considerations were being applied. Therefore, the occupational perspective in this case appeared to be transparent, which identified structural inequality to be the most influential factor of crime for youth in Southern Tasmania. This belief was also indicative of the frustration interviewees held regarding the lack of referral options and post conference support to help offenders find pathways out of crime.

8.3 The Challenges of Practicing Restorative Justice

The problem of practicing Restorative Justice is not limited to Southern Tasmania, it has occurred throughout Australia and internationally (Wood:

2016). The reasons pertaining to these inconsistencies between theory and practice has arguably stemmed from how governments want restorative theory to operate in the justice system at a low cost. As discussed, this belief is indicative of neo-liberalism, which makes governments appear they are doing something about crime, when in fact; they are placing the emphasis of rehabilitation on offenders. This is one reason why conferencing has readily been criticised, because recidivist offenders are expected to desist after a one-hour conference. But realistically (as discussed in the Chapter 1 and 2), young offenders are often defined by traumatic experiences and chaotic lifestyles, which cannot be undone in the space of a couple of hours. Conferencing in this sense cannot create favourable turning points or pathways out of crime. This is why conferencing in Southern Tasmania appears to only work for low needs offenders, as it doesn't have the ability to follow up post conference support. Rather, conferencing should be used in collaboration with other diversionary options, not as a sole diversion for an entire system.

This is why conferencing in Southern Tasmania is being overused, creating a situation of inappropriate referrals. For example, it was described to me that young offenders who are not remorseful are still sent to conferences. But as demonstrated in some case studies, victims have been traumatised as offenders have simply followed the scripting of the conference without being genuinely remorseful. I argue this is not best practice. Instead, offenders should only be referred to a conference (if a victim is present) if they are ready to apologise and take responsibility. As well, the use of conferencing for crimes against the State, such as public order offences that have no 'real' victim, begs the question of who

the offender is supposed to apologise and be remorseful too. These examples, demonstrate how the current lack of alternatives to conferencing in Tasmania has created a situation where conferencing is being used in ways that is not at times symbolic of restorative theory.

This confusion of how conferencing should be practiced is also symbolic of why some interviewees have raised concerns that undertakings are irrelevant to offender needs. By not tailoring undertakings to the needs of offenders in turn creates post conference support to be a means to only extend State control. In this sense, Restorative Justice in Southern Tasmania has become lost in a process of administration, rather than reflecting a model of best practice. For example, young offenders are made to attend undertakings as a necessity of the conference process, rather than a step forward to promote personal development. One interviewee also summed up this shortcoming.

Interviewee: Community conferences struggle to address offending issues, we can't address the underlying issues for the young person, because at a conference, we are dealing with what actually occurred, conferencing deals with the crime itself, opposed to why that crime has occurred. So yes, community conferences struggles to deal with those issues.

Therefore, there is no room for complacency in understanding the development of Restorative Justice in Southern Tasmania. The introduction of conferencing has seen extraordinary achievements in improving the lives of many young people by reducing detention rates. But, due to a combination of

misunderstanding theory and the lack of political conviction, the most disadvantaged still graduate through the three-tiered system of youth justice without adequate intervention to address their basic human needs. This is not meant to suggest that young offenders who have committed serious crimes do not require close supervision. Secured facilities will still be required in serious cases; this is because the community needs to be protected. But as it is beyond the scope of this study, I cannot comment further on the detention system. However, this study has demonstrated that more could be done to improve the conferencing system.

8.4 The Strengths of the Youth Justice Sector in Southern Tasmania

The most notable strength of the sector is the workforce. This is because all interviewees demonstrated a real interest to improve the lives of offenders and their families. In most cases, interviewees identified the struggles of working with youth who came from dysfunctional backgrounds and often experiencing abuse or neglect. This is because (in most cases), their situation seems hopeless, due to a lack of pro-social role models in their families. But it was revealed practitioners (including the police) at times fill this role. The positive influence of mentors on the lives of at-risk youth has been established by Sykes, Gioviano and Piquero (2014). But, is this the formal role of the practitioners involved in this study? I would argue that more could be achieved to promote mentoring positions in the youth justice sector. Dedicated mentors can operate at relatively

low costs to the taxpayer while providing practical day-to-day support to the most vulnerable.

Interviewee: It's hard to find a family member who is pro-social. I had one young guy who was offending and wasn't going anywhere. I got him into U-Turn and he did really well, it was a significant achievement for him. That only happened because I was persistent with him. So, I think it's a combination of support and having a pro social person in their life, but that's hard for other kids as their family backgrounds are shocking.

Achieving positive outcomes in youth justice also relies on the ability of practitioners to have moderate caseloads, as more clients mean less time for each young person. To interviewees, high caseloads inhibit the ability for practitioners to provide support to offenders, which also creates a false impression of the work being achieved by the sector. This is another reason why reforms to the case management model for offenders with complex needs are recommended. This is because the youth justice sector works with offenders across a number of government departments and non-government agencies, which at times all have high caseloads and rely heavily on inter-agency relationships. This is one reason why interviewees had concerns surrounding how offenders are currently managed.

Interviewee: Child protection workers are low paid and under-resourced from vehicles to mobile phones. They are expected to case manage 20 young people. When you have 20 working days a month, you cannot give the level of attention

that is required for the protection of those young people... Things shouldn't be broken before there is change, it needs to be looked at holistically by the government... I think personally, caseloads should be around 10 to give the appropriate responses that parenting is required of youth. Remember, these young people and their families are high needs, they wouldn't be subject to a care and protection order if they weren't high needs.

The problem of high caseloads in Southern Tasmania also reflects the opinion of the government that at-risk youth are responsible for their own rehabilitation. But from listening to interviewees, the current state of the sector is not at crisis point, but arguably if only one young person is failed, the cost is already too high. This is why the transition to an MDT model would not only reflect a shift in political discourse from neo-liberalism to restoration, but also practically improve outcomes for Tasmania's most vulnerable. As outlined in the last transcript, practitioners in the sector are at times, over worked, under resourced and frustrated with a system that should be otherwise empowering young offenders to desist from anti-social beliefs and lifestyles within a supportive and well funded system. Unfortunately, this does not appear to be the case.

8.5 Concluding Statement

Restorative Justice in Southern Tasmania has seen a positive reduction in youth offending since its introduction in 2000. Since this time, Restorative Justice has symbolically guided practices through early intervention policing, the development of the EIU and community conferences. But as identified from this

thesis, it can still be so much more. Current analysis of the system shows a restriction of funding to where it is needed most, for recidivist offenders in the community. Neo-liberalism is able to make sense as to why this gap in service delivery is being justified by the Tasmanian Government, by simultaneously rolling back community programs for offenders, whilst promoting Restorative Justice, the development of the EIU and the youth court. These actions show how the Tasmanian Government has increased the social control of the underclass, whilst rolling back services that are most needed for this demographic. But as shown, this does not need to be the case. Simply, political will can make change. The development of community programs can minimise the use of AYDC by diverting youth prior to serious recidivist offending through programs that result in formal qualifications and pathways into employment.

These policy conclusions have been made possible through examining the insider perspectives of professionals in the youth justice sector. Without their knowledge, these findings would not have been made possible. Notably, the use of in-depth interviews has demonstrated the difficulties in addressing the needs of chronic offending youth within the few hours of conferencing and in post conference support.

Qualitative research methods in criminological research will continue to provide insider accounts such as that detailed in this study. Even though the researcher only had brief access to practitioners, the interviews were nonetheless valuable in uncovering new knowledge in criminology. The interview methodology demonstrated how quantitative data does not always explain current trends in

criminal justice. Specifically, findings from this thesis differ from statistical accounts released by the Tasmanian Government, which argue the success of Restorative Justice reducing the rates of youth crime. Instead, this thesis has shown through an occupational perspective that it is more likely youth crime statistics have dropped due to the inability of police and magistrates to charge youth within a restorative system.

Qualitative methods made it possible to examine professional perspectives in some depth and to understand practice challenges in delivering services. It would be helpful if future researchers could also conduct different types of ethnographic research to evaluate conferencing. By adding to the body of qualitative research in criminology, it is my hope that criminological journals, governments and other independent bodies further utilise qualitative studies.

Appendix A – Interview Guides

Interview Guide for Practitioners

1. What is your position, relevant qualifications and previous work experience?
2. What do you see to be the causes and solutions of youth offending?
3. What are your main concerns surrounding at-risk youth in Southern Tasmania?
4. How important is inter-agency collaboration in delivering Restorative Justice?
5. How would you describe the relationship between Youth Justice and Tasmanian Police and how important is this relationship in delivering Restorative Justice in Tasmania?
6. How would you describe Restorative Justice in Tasmania? Do you have any specific stories or experiences that underpin this view?
7. How would you describe the resources allocated to Restorative Justice in Tasmania?
8. Have you been involved in restorative conferences as an attendee or in a support role? How was your experience in attending? Do you have any specific stories relating to your opinion?
9. Do you see Restorative Justice developing further in Tasmania apart of policing and Youth Justice case management?
10. In your time being involved in restorative conferences have there been any significant changes in the delivery or concepts underpinning practices.
11. Do you see Restorative Justice to be a positive step in addressing youth crime and victim needs?
12. Do you see Restorative Justice acting to solve the problems of youth crime or simply reducing reoffending rates?

13. Are there any current shortcomings in Restorative Justice? How might these be improved?
14. Do you have any other opinions you may want to share on the topic of Restorative Justice in Southern Tasmania?

Interview Guide for Facilitators

1. What is your position, relevant qualifications and previous work experiences?
2. How have these assisted you in your current role?
3. As a practitioner, what do you see to be your primary objective?
4. What do you see to be the causes of offending?
5. What are your main concerns surrounding at-risk youth in Southern Tasmania?
6. How important is inter agency collaboration in delivering restorative justice?
7. How would you describe your relationship with youth justice and the police and how important is it to restorative justice in Tasmania.
8. How would you describe the model of restorative justice here in Tasmania?
9. How would you describe the resources allocated to restorative justice in Tasmania?
10. What is involved in your day-to-day work?
11. How much time does it take to set up a conference
12. What is involved in setting up a conference
13. Are conferences followed up in any way
14. Do you follow any theory in setting up and delivering a conference?
15. Are there any other values, principles or practices that influence your work?

16. Do you have any stories that made you want to do restorative work
17. How are youth referred to restorative conferences?
18. Do you see restorative justice developing further in Tasmania?
19. What have been some recent developments in Tasmania restorative justice?
20. What is your opinion of lay people facilitating conferences?
21. How much time is realistically involved in setting up a conference.
22. What are the administrative tasks involved in the day-to-day work of restorative justice.
23. How are other youth justice professionals involved in restorative justice work?
24. How reliant is restorative justice on government funding?
25. What are your daily challenges in restorative work
26. How might current systems improve the outcomes of young offenders?
27. How might current systems improve the outcomes for victims?
28. Have you come across concerns from young offenders regarding a lack of due process or police coercion? How did you respond to this?
29. Are there any shortcomings in restorative justice? How might these be improved?

Appendix B – Conference Documents



Youth Justice Agreement to Attend Caution or Conference

YOUTH / OFFENCE DETAILS

Surname

Given names

Address

Date of birth

Age

Mobile

Father name

Work phone

Mobile

Mother name

Work phone

Mobile

RECEIPT OF ADVICE AND AGREEMENT TO ATTEND

I have been advised by (full name)

Of the below nature of offences of (exact details of the offence including date, location, victim)

I admit that my actions were unlawful and I am guilty of committing those matters and I agree to attend a formal caution or community conference, whichever is applicable, when it is arranged and I am advised of the date.

Youth signature

Date

Witnessed by

☐ Parent ☐ Guardian ☐ Responsible Adult

Witness name

Signature

Police officer completing agreement name

Signature

Rank

Badge number

Date

INFORMATION

Please read and retain this document, it contains important information regarding the formal caution or conference you have agreed to attend.

1. The process of a formal caution/conference has been explained to you and you have indicated your preparedness to voluntarily take part in the formal caution/conference and be formally cautioned.
2. The time, date and location of the formal caution/conference will be confirmed.
3. Your family and any other people who can support you may also attend the formal caution/conference.
4. Anyone affected by your actions may also attend.
5. If you do not attend the formal caution/conference, Police may take other action regarding the matter(s) mentioned above.
6. Police can withdraw the offer of a formal caution if it appears that a successful outcome may not be achieved.
7. You have not been forced or threatened to take part in a formal caution/conference or to sign this form.
8. If you cannot attend you will give 48 hours notice so that others who have been invited can be contacted.
9. If a formal caution/conference does not reach a successful conclusion this matter may be referred to court.

Note: A copy of this form should be given to the youth.



Youth Justice Record of Formal Caution and Undertakings

FORMAL CAUTION DETAILS

Youth being formally cautioned surname

Given name

Police officer (authorised) conducting caution surname

Given name

Police officer (authorised) station

Rank

Badge number

Date formal caution conducted

Names of people present for formal caution

OFFENCE(S) FORMALLY CAUTIONED AGAINST

UNDERTAKINGS

Undertakings agreed to

(Additional pages to be attached if required. All pages must be signed by all parties)

FORMAL CAUTION

I am now required to administer to you a formal caution under the *Youth Justice Act*.

I am officially warning you not to re-offend.

In signing this Formal Caution I must inform you that it is evidence of prior offending history and will be recorded.

It may be treated as evidence of the commission of this offence, by a Police Officer, Community Conference or a Court if you are dealt with for any subsequent offence.

After being told that his/her admission and the administration of a formal caution may be treated as evidence of the commission of these offences.

Youth signature

Witnessed by

☐ Parent ☐ Guardian ☐ Responsible Adult

Witness surname

Given name

Witness signature

Police officer (authorised) signature



DEPARTMENT of POLICE and
EMERGENCY MANAGEMENT
TASMANIA FIRE SERVICE

DEPARTMENT of HEALTH and
HUMAN SERVICES
YOUTH JUSTICE SERVICES

Community Conference

Request for Tasmania Fire Service Representation

CONFERENCE FACILITATOR

Name:

Telephone:

Email:

CONFERENCE DETAILS

Venue:

Date:

Time:

YOUNG PERSON

Name:

DOB:

DETAILS OF THE INCIDENT

(Brief description or include attachments)

Date:

Time:

Address/ location:

Other details:

Postcode:

Send requests to the Community Education Unit, Tasmania Fire Service

Email: CommunityEd@fire.tas.gov.au

Fax: 6231 6527

Telephone: 6230 8485

TFS Office Use Only

JFLIP File No:

TFS Incident No:

Officer attending:

Venue and Conference Environment

The physical environment for conferences is most effective when:

Best environment

- The room is large enough to support the size of the group in comfort
- The confidentiality and privacy of participants can be protected
- There is the potential for a break-out space if people need time out for a few minutes
- The room is ventilated and the temperature is satisfactory
- Seating is uniform, and
- There is minimal disruption and outside noise.

The location for a Community Conference venue is the responsibility of the facilitator and the inclusion of relevant family and community support networks for both victim and young person could be powerfully supported through a well-chosen venue.

Location

It is also important to recognise that some settings may have more significant impact on the young person, which could be useful, such as a building that was vandalised by the young person. Equally, an environment that accentuates authoritarian power, such as a police station, should be avoided unless security or other factors need to be considered as this process is restorative not punitive.

A post-conference ceremony can have a powerful effect on the remorse of the youth and provision should be made available to hold a brief 'breaking-of-bread' ceremony immediately after the Community Conference.

"Breaking-of bread" ceremony

This is also the time to invite feedback from participants and to distribute feedback forms if available or to invite them to provide feedback to Youth Justice through the Coordinator.



Youth Justice Facilitator Script

SCRIPT DETAILS

On (date)

Name

Offence

Script Sequence:

- | | | |
|-----------------------------|----------------------------------|-----------------------------|
| 1. Open meeting | 8. Introduce 'shaming' | 15. Make final confirmation |
| 2. Outline process | 9. Call for sanctions | 16. Confirm compliance |
| 3. Read script | 10. Determine suitability | 17. Follow-up arrangements |
| 4. Invite offender to speak | 11. Suggest options, if required | 18. Deliver caution |
| 5. Probe for details | 12. Identify way to enact ideas | 19. Sign agreement |
| 6. Invite victim's response | 13. Initiate agreement | 20. Farewell group |
| 7. Invite group discussion | 14. Victim satisfaction | |

Script content :

1. I would like to start by welcoming everyone. My name is.....
2. Before the caution begins I would like to work my way around the group and introduce everyone and indicate their reason for being here.
3. At this stage, I would like to thank you all for making the effort to attend. This is difficult for all of us, and your presence here will help us deal with the matter that has brought us together.
4. I must warn all present that the Youth Justice Act requires that a person must not publish any information in relation to this process that may lead to identification of those persons here present.
5. Today this caution will focus on an incident which happened.....
6. It is important to understand that we will focus on what (*offender's name*) did and how his/her unacceptable behaviour has affected others.
7. We are not here to decide whether (*offender's name*) is a good or bad person.
8. We want to look at how people have been affected by what has happened and work towards fixing the harm that has been done to people.
9. (*Offender's name*) has admitted to his/her part in the incident. If at any stage in the caution you no longer wish to participate, you are free to leave.
10. But you do need to know that the matter may be dealt with very differently if you do.
11. This matter can be finalised because of your participation in the caution and (look at the offender and direct this to offender) your agreement to do what is required after the caution.
12. This is an opportunity for all of you here to be involved in repairing the harm done.

Notes

ATTENDEE DETAILS

Offender

Offender support 1

Offender support 2

Victim 1

Victim 2

Other/s

OFFENCE DETAILS

Offence

Date of offence

Officer involved

Caution number

☐ First caution ☐ Second caution

Date of first caution

First caution offence

First caution outcome

Community Conference Agreement

We agree that the sanction/s described below were arrived at via agreement between the young person/s, victim/s (if present) and the police representative, as per section 17(4) of the *Youth Justice Act 1997*.

1.
What has been agreed to:
Who has agreed to help:
This needs to be completed by:

2.
What has been agreed to:
Who has agreed to help:
This needs to be completed by:

SIGNED:

Young Person:	Signature:
Police Officer:	Signature:
Victim(s), if present:	Signature:
Parent/Guardian:	Signature:
Youth Justice Representative:	Signature:
Others present:	Signature:
Facilitator:	Signature:

Community Conference Agreement (continued ...)

3.
What has been agreed to:
Who has agreed to help:
This needs to be completed by:

4.
What has been agreed to:
Who has agreed to help:
This needs to be completed by:

5.
What has been agreed to:
Who has agreed to help:
This needs to be completed by:

COMMUNITY CONFERENCE AGREED OUTCOME (CC2)

Name of Young Person		D.O.B	
Facilitator		Venue	
Date of Conference		Time	
Referral Source	Police / Court	Police File #	

Indigenous Status:

- ☐ Not Indigenous
 ☐ Indigenous – Aboriginal but not Torres Strait
 ☐ Indigenous – Torres Strait but not Aboriginal
 ☐ Indigenous – Aboriginal and Torres Strait

Attendees:

Name of Victim/s	Invited			Not Invited
	Attended	Contributed didn't attend	Didn't contribute or attend	
Name of Preferred Aboriginal Elder or Representative				

Police Officer	
Youth Justice Representative	
Others present and their role or relationship to victim/s or offender/s	

Summary of Agreed Outcomes:

<input type="checkbox"/> 16 (1)(a) Caution	
<input type="checkbox"/> 16 (1)(b) Pay compensation for injury	
<input type="checkbox"/> 16 (1)(c) Pay compensation for destruction/damage	
<input type="checkbox"/> 16 (1)(d) Restitution of property	
<input type="checkbox"/> 16 (1)(e) Hours of community service	
<input type="checkbox"/> 16 (1)(f) Apology to victim	Victim Agreed to Receive Apology Yes / No
<input type="checkbox"/> 16 (1)(g) Anything else deemed appropriate	

Timeframe:

Where the conference was held outside of the 6 week timeframe from receipt of the police file (facilitators don't have this date – suggestions?) would you please indicate the reasons for the delay. Further information can be provided to the side of the tick boxes.

<input type="checkbox"/> Awaiting Police Documentation	
<input type="checkbox"/> Locating Victim	
<input type="checkbox"/> Locating Young Person	
<input type="checkbox"/> Police Availability to Attend	
<input type="checkbox"/> Victim Availability to Attend	
<input type="checkbox"/> Sexual Offence	
<input type="checkbox"/> Violent Offence	
<input type="checkbox"/> Counselling / Health Reasons Victim	
<input type="checkbox"/> Counselling / Health Reasons Young Person	
<input type="checkbox"/> Other	

Additional Information

Include any information that may assist Community Youth Justice in supervising the conference undertakings eg. Updated phone numbers, address details etc.

Report prepared by:

SIGNED

DATE

COMMUNITY CONFERENCE EVALUATION FORM

Facilitator: _____ Date of Conference: _____ Time of conference: _____

To complete this form please mark the circle with a tick or a cross that best describes how you feel for each question.

1. I chose to be at the conference

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

2. I knew what the conference would be like before I came

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

3. I understood what was going on in the conference

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

4. I was treated with respect in the conference

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

5. Everyone at the conference seemed to want to work things out

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

6. I got to have my say at the conference

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

7. People seemed to understand my side of things

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

8. After hearing everyone talk I see things differently now

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

9. The conference helped me to sort things out

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

10. I felt I had a say in what the conference undertakings were

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

11. I think the conference undertakings should help make things better

- ☐ agree a lot
- ☐ agree a little
- ☐ disagree a little
- ☐ disagree a lot

12. If you are at the conference because you did something how important were these things for you

	A lot	A bit	Not
To tell people what happened	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To make up for what I did	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To apologise for what I did	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To say it won't happen again	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

13. If you are at the conference because something happened to you was it important for you

	A lot	A bit	Not
To know why it happened	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To receive compensation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To say how it affected me	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To get answers to questions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To get an apology	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
To help it not happen again	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

14. How do you feel about the conference now?

- ☐ very positive
- ☐ a bit positive
- ☐ a bit negative
- ☐ very negative

15. Sex

- ☐ Female
- ☐ Male
- ☐ Intersex

16. Age

- ☐ 10-13 ☐ 25-39
- ☐ 14-15 ☐ 40-59
- ☐ 16-17 ☐ 60+
- ☐ 18-24

17. Are you of Aboriginal or Torres Strait Islander origin? If you are of both Aboriginal and Torres Strait islander origin, please mark both 'yes' boxes

- ☐ No
- ☐ Yes, Aboriginal
- ☐ Yes, Torres Strait Islander

18. Do you identify as belonging to a particular cultural or ethnic group?

- ☐ No
- ☐ Yes, which? _____

19. There was someone from my cultural group to support me at the conference.

- ☐ Yes
- ☐ No

20. I am at this conference because

- ☐ I admitted to doing something

Name: _____

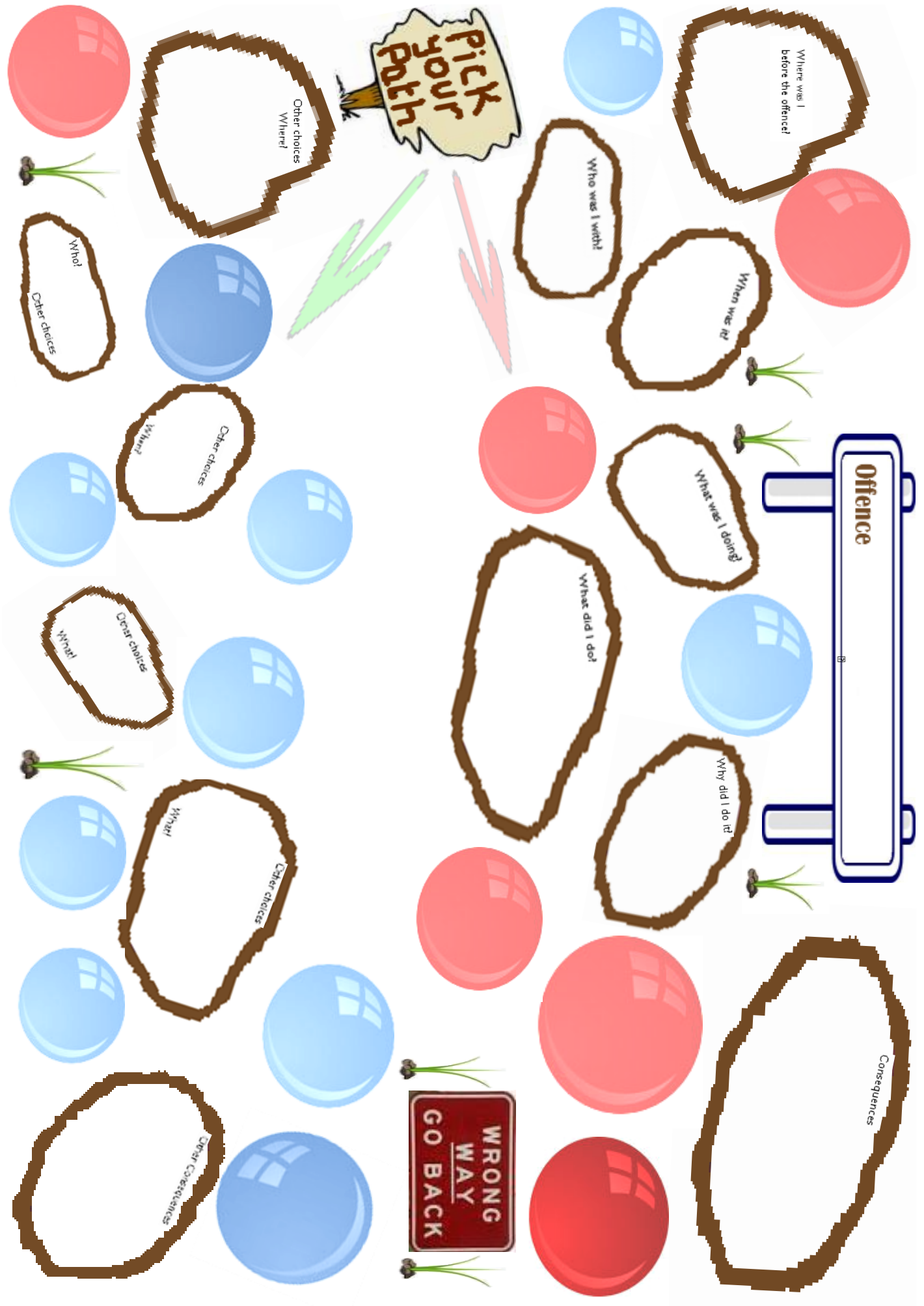
- ☐ Something happened to me or my organisation
- ☐ I was there for another reason

Date completed: ____ / ____ / ____

Thank you for completing this Community Conference Evaluation Form. The results will remain confidential and will be used by staff at Child and Youth Services to improve Community Conferences in Tasmania.

Appendix C –

CHART Model (Offence Map)



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